EIGHTEENTH REPORT

OF THE

BOARD OF RAILWAY COMMISSIONERS FOR CANADA

FOR THE YEAR ENDING DECEMBER 31

1922

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1924

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA

Hon. F. B. CARVELL, K.C., *Chief Commissioner.*

S. J. MCLEAN, M.A., LL.B., Ph.D., *Assistant Chief Commissioner.*

Hon. W. B. NANTEL, K.C., LL.D., *Deputy Chief Commissioner.*

A. C. BOYCE, K.C., *Commissioner.*

J. G. RUTHERFORD, C.M.G., *Commissioner.*

C. LAWRENCE, *Commissioner.*

A. D. CARTWRIGHT,
Secretary.

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OF THE

BOARD OF RAILWAY COMMISSIONERS

FOR CANADA

To the Governor in Council:

Pursuant to the provisions of section 31 of the Railway Act, 1919, the Board of Railway Commissioners for Canada has the honour to submit its Eighteenth Report for the year ending December 31, 1922.

Since the publication of the last report the following amendment has been made to the Railway Act, 1919:—

12-13 GEORGE V.

CHAP. 41.

An Act to amend The Railway Act, 1919.

(Assented to June 28, 1922.)

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Subsection five of section three hundred and twenty-five of the Railway Act, 1919, shall, notwithstanding the proviso thereof, remain in effect until the sixth day of July, 1923, and may be continued in force for a further period of one year by order of the Governor in Council published in the *Canada Gazette;* Provided, that notwithstanding anything herein or in said subsection five contained, rates on grain and flour shall, on and from the sixth day of July, 1922, be governed by the provisions of the agreement made pursuant to chapter five of the statutes of Canada, 1897.

PUBLIC SITTINGS OF THE BOARD

During the year covered by the period from January 1, 1922, to December 31, 1922, the Board held 52 public sittings at which 204 applications were heard. The number of public sittings held in the various provinces were as follows:—

Provinces	Number.
Ontario	32
Quebec	5
Manitoba	1
Saskatchewan	2
Alberta	4
British Columbia	6
Nova Scotia	1
New Brunswick	1
Total	52

The applications include a great variety of matters falling within the jurisdiction of the Board under the Railway Act, varying from the complaint of a private individual to weightier matters of general public interest affecting the community as a whole.

FORMAL AND INFORMAL MATTERS

The number of informal matters dealt with by the Board, as distinguished from matters heard at public sittings, constitute a considerable percentage of the total applications and complaints dealt with by it, that is to say, of a total of 3,348 applications and complaints received and dealt with by the Board 94 per cent were disposed of without the necessity of such formal hearing. These informal complaints, dealt with and settled without the necessity of hearing, entail in many instances a considerable amount of inquiry and consideration on the part of the Board's officials, and cover a wide range of subjects, as, for example, a complaint of a more or less trivial nature to a matter of general public interest affecting the community as a whole, or involving the application of some general principle, regarding the railway rates.

RAILWAY GRADE CROSSING FUND

In accordance with the provisions of subsection (5) of section 262 of the Railway Act, 1919, provision was made that the sum of $200,000 each year, for ten consecutive years from the 1st day of April, 1919, was appropriated and set apart from the consolidated revenue fund for the purpose of aiding in the providing by actual construction work of protective safety, and conveniences for the public in respect of highway or crossings of the railway at rail level, in existence on the said 1st day of April, the said sums to be placed to the credit of a special account to be known as "The Railway Grade Crossing Fund," to be applied by the Board, subject to certain limitations set out in the Act, solely towards the cost (not including that of maintenance and operation) of actual construction work for the purpose specified.

In dealing with such crossings, the Board issued, between the 1st day of April, 1909, and the 31st day of December, 1922, 505 orders, providing protection for 563 crossings as follows:—

By	Electric bells	262
"	Gates	116
"	Subways	55
"	Overhead bridges	25
"	Diversion of highways	40
"	Closing of streets	17
"	Removal of view obstructions	14
"	Shelter	1
"	Towers	3
"	Wig-wags	9
"	Bell and wig-wag	49
"	Diversion of highway and bridge	1
"	Diversion of highway and subway	1
"	Diversion highway and removal view obstruction	1
"	Bell and removal view obstruction	1
"	Easing curve on approach to highway bridge	1

It will be seen by comparing the total number of crossings protected with the Seventeenth Annual Report of the Board, that the increase for the twelve months ending December 31, 1922, in the number of crossings protected, number 36, made up as follows:—

By	Gates	1
"	Subways	1
"	Diversion highways	5
"	Closing of streets	7
"	Removal view obstruction	6
"	Wig-wag	1
"	Bell and wig-wag	23
"	Diversion highway and bridge	1
"	Easing curve on approach to highway bridge	1

NOTE—Thirty-six crossings and 46 protections consequent on account of double bells and wig-wags at 6 crossings, and 4 diversions closing 7 crossings.

It will be noted that under the new consolidated Railway Act provision is made that the total amount of money to be apportioned and directed and ordered by the Board to be payable from the annual appropriation, shall not in the case of any one crossing exceed twenty-five per cent of the cost of the actual construction work in providing such protection, and shall not in any such cases exceed the sum of $15,000, and that no such money shall in any one year be applied to more than six crossings on any one railway in any one municipality, or more than once in any one year to any one crossing.

Subsection (3) of section 262 of the consolidated Railway Act provides that in case any province contributes towards the said fund, the Board may apportion, direct and order payment out of the amount so contributed by such province, subject to any conditions and restrictions made and imposed by such province in respect of its contribution.

GENERAL ORDERS

The following is a brief summary of some of the matters dealt with under the Board's general orders:—

Direction in the matter of the appointment of caretaker agents at non-agency stations, that the duties of a caretaker shall be to see that the station is kept clean and, when necessary, heated and lighted for the accommodation

of passengers, and to be present on the arrival and departure of trains; such duties to be the same as those of a regular station agent excepting the billing of freight and handling the telegraph system.

Direction in the matter of an application of the Order of Railroad Conductors of America and Brotherhood of Railway Trainmen by providing that the Board's General Order No. 102, dated February 17, 1913, be amended by striking out the provision under the heading " Caboose cars with platforms " and inserting therefor the following:—

" Caboose Platform-Steps:

" Safe and suitable open, or box, steps leading to caboose platforms to be provided at each corner of caboose.

" Where open steps are used, the bottom tread of said steps to be provided with a right and left foot-stop at each end of tread, made of angle iron $3\frac{1}{2}$ by $2\frac{1}{2}$ by $\frac{1}{4}$-inch; the $2\frac{1}{2}$-inch face of angle iron to be bolted to the step."

Direction in the matter of the application of the Canadian National Millers' Association and the Dominion Millers' Association for an order suspending the tariffs or supplements to the tariffs filed with the Board in pursuance of its General Order 354, dated January 4, 1922, increasing the rates for out-of-line haul for western grain milled in Western Canada, that the said tariffs be suspended from the effective dates, with leave to the railway companies to apply to the Board for any adjustment of rate if necessary.

Direction in the matter of applications to the Board in respect to railway crossings of highways in the Provinces of Manitoba, Saskatchewan, Alberta and British Columbia, to the effect that the Railway Companies serve copies of notices of all applications to the Board with respect to railway crossings of highways in the said provinces and outside the limits of incorporated cities or towns thereof, upon the representatives of the Government of the said provinces as set out in the Board's General Order No. 358.

Direction that every railway company subject to the jurisdiction of the Board, within six days after the head officers of the company have received information of the occurrence upon the railway belonging to it, or operated by it, of any accident attended with personal injury to any person using the railway, or to any employee of the company, or whereby any bridge, culvert, viaduct, or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, to give notice thereof to the Board, such notice to be addressed to the Chief Operating Officer of the Board, and to be printed on hard paper in the forms " A " (relating to highway crossing accidents only) and " B " (relating to accidents other than those occurring at highway crossings), schedules to this order; such reports to refer to such accidents as above specified as occur as a result of transportation, that is to say, where movements of trains, engines, or cars are involved therein, and not to accidents occurring in railway shops, or manufacturing establishments, or other places on the railway, unless caused directly or indirectly by train, engine, or car movements; also directing that certain accidents as set out in the Board's General Order No. 361 shall be reported to the Board's Chief Operating Officer at Ottawa by telegram, containing the information called for in the order.

Direction in the matter of the Board's General Order No. 107 prescribing regulations to be adopted by railway companies for the prevention of fires, that certain Orders of the Board as enumerated under said General Order No. 362 be cancelled and that, unless exempted by special order of the Board, every railway company subject to its jurisdiction shall cause all locomotives and other

portable boilers, other than those using oil as fuel, used on the railway, to be fitted and kept fitted in good order with practical and efficient devices for arresting the escape of sparks or live coals, as set forth in said General Order No. 362; and making numerous other provisions in regard to fire protective appliances on locomotives; also providing that every railway company allowing or permitting the violation of, or in any respect contravening or failing to obey said regulations, be subject, in addition to any other liability which the said company may have incurred, to a penalty of one hundred dollars for every such offence; also that if any employee or other person included in the said regulations, fails or neglects to obey the same, or any of them, he shall, in addition to any other liability which he may have incurred, be subject to a penalty of twenty-five dollars for every such offence.

Direction for the making of periodical returns, duly verified by affidavit to the Board in respect of the carriage of traffic at free or reduced rates under the Railway Act, issued by the companies subject to the Board's jurisdiction, that all railway companies in default in filing details of returns as provided by the Act, for 1920, not excepted by the Board as set forth in its General Order No. 365, be required to file such details not later than the 1st day of October, 1922; also making provision for the filings for the years 1922 and 1923, and directing that the returns be made quarterly, and that all railway companies failing to comply with the requirements of the Board's Order be subject to a penalty of $100 a day for every day in which a railway company shall be in default; also directing that all railway companies in default in filing returns in respect of which the specific date is set out in the regulations as approved by General Order No. 290, for the year 1922, be required to file the same not later than October 1, 1922, and thereafter on or before the 1st day of January for each succeeding year; and that every such railway company shall be subject to a penalty of $100 a day for each violation of the said Regulations.

Direction of the Board in the matter of freight tolls 1922, that all railway companies subject to its jurisdiction be required to file forthwith tariffs giving effect to the rates prescribed and authorized in the Board's judgment of the 30th June, 1922, and making the effective date of the said rates August 1, 1922.

Direction that rule No. 33 of the General Train and Interlocking Rules be struck out and the following substituted therefor, namely:—

> "33. Watchmen stationed at public road crossings must, by day, display a metal disc (16 inches in diameter, white background, with the word 'stop' in large black letters, and a black border); and, by night, a red light, to warn pedestrians and persons in vehicles that a train is approaching. Where gates are provided, a red light, hooded so as to show to the highway only, must be displayed by night."

GENERAL DECISIONS AND RULINGS OF THE BOARD

Submitted herewith, epitomised, are some of the more important matters dealt with by the Board at its public sittings for the year ending December 31, 1922. The principal judgments of the Board will be found under appendix "A" to this report.

COMPLAINT OF THE ASSOCIATED BOARDS OF TRADE, VANCOUVER ISLAND, *et al*, *re* COAST RATES ON LUMBER IN CARLOADS

These were, in effect, an application that main land coast rates on lumber, in carload lots, be extended to Vancouver Island points. The complaint was based largely upon the ground that the present arbitrary of 2 cents per 100

pounds amounted to unjust discrimination against Vancouver Island shippers, as lumber shippers from Port Townsend and Port Angeles, in the state of Washington, both on the main land, took the Seattle rate, which was the same as the Vancouver rate; and that, as Vancouver island lumber had to compete in the United States markets with lumber from these two points in the state of Washington, Vancouver was discriminated against.

While, as a business necessity, there is much similarity between American and Canadian rates, particularly with regard to transcontinental traffic, there is no obligation to follow any rate established in the United States. Apart from this fact it was pointed out that the United States rates in question were the result of competitive conditions. The real question involved here was whether the railway companies should be required to include the whole of the British Columbia coast and the island of Vancouver in one group for rate making purposes, and whether the railways were justified in considering this particular traffic as one zone or two zones as at present.

Held, it was for the railway companies to decide whether the traffic in question be considered as one or two zones, subject always to the control vested in the Board to say whether the rates per se were just and reasonable, and whether or not any particular community had been unjustly discriminated against. No such discrimination had been established, and the rate of $12 to $15 a car found to be a reasonable one for transporting lumber by barge from Vancouver island to the main land.

Application dismissed.

APPLICATION BELL TELEPHONE COMPANY FOR INCREASED TOLLS

The tariff submitted for approval involved substantial increases in telephone tolls, extending over the whole of the exchange area. The grounds upon which the application was based were (*a*) that the existing rates did not produce sufficient revenue to meet the company's dividend requirements, as contemplated by the previous judgment of the Board; (*b*) that, owing to inadequate earnings, it was impossible to obtain the money necessary to enable the company to extend its facilities; (*c*) that approximately sixteen thousand applications for service could not be supplied, owing to the general shortage in equipment; and (*d*) that large capital outlays are necessary if the public is to obtain telephone service.

The onus of establishing the fairness, justice, or reasonableness of a tariff rests upon the company proposing it. History of the company's position and its previous applications to the Board for increases discussed. The increases formerly allowed were to meet emergency conditions. These emergency conditions, it was held, no longer existed; that if strict economy in the management of its business was practised, increases not necessary to enable company to provide for its operating requirements.

Figures were given to show that the deficit alleged would not have resulted had the economies ordered by the company become effective earlier. Found as a fact upon the evidence that the company had not discharged the onus resting upon it that the proposed tariffs were such as would be suitable, just, and reasonable for telephone service in the various areas affected. Extension of the company's business discussed and considered, and the conclusion formed that its estimate of $1,357,500 as the additional amount required was excessive. That the maximum amount needed to implement the requisite revenue to meet all its requirements was $600,393; and that, had the economies, effecting in five months decreases of $263,691.98 in operating expenses, been earlier introduced as was possible, the deficit would have been met.

Held, for the reasons set forth in the judgment of Mr. Commissioner Boyce, concurred in by Deputy Chief Nantel and Commissioner Lawrence, that the application must be refused.

Chief Commissioner Carvell (*dissenting*), took the position that as a public utility corporation, the applicants could only charge the tolls or rates which the Board approved, and that therefore it should be allowed a sufficient rate to meet operating and maintenance charges. A four per cent reserve for depreciation, an 8 per cent dividend, and 2 per cent surplus, as decided by the Board in its previous judgment after careful consideration, always assuming that the business of the company was efficiently and economically managed. The evidence was that the applicant company was so managed.

View expressed that, upon the evidence before the Board, the company would be $600,000 short at the end of a twelve months' period, of the requirement set forth by the Board in its earlier judgment, if the present rates were continued and no increases allowed; that the company itself was the proper judge as to the method of financing to be adopted.

Operating costs, with particular reference to the wages paid, discussed, and the opinion expressed that, even with the economies referred to in the majority judgment, there would be a deficit of $500,000. This amount could only be produced by reducing the wages of operators and other employees, or by increasing the rates. Since it was not shown that the wages were unduly high, but fair and reasonable, the deficit should be made up by increasing the rate. In view of the decision of the majority of the Board, it was not necessary to enter into any statement as to how this amount of money should be raised, other than to say that there were a number of places in the territory covered by the applicant company in which the rates were abnormally low, and that these could be brought up somewhere near the position they should occupy.

An order, in his opinion, should go granting an increase to produce $600,000 a year.

Assistant Chief Commissioner McLean (dissenting)—The former decisions of the Board referred to. The present application sets out that the existing rates do not produce sufficient revenue to meet the company's dividend requirement, and therefore do not carry out the intent of the Board's previous judgment and order; also that because of this condition, it is impossible for the company to obtain the additional money necessary to finance essential additions to facilities. To protect investment there must be a surplus of revenue over and above the necessary and proper charges of the company under prudent management. This whole question thoroughly gone into and decided in former cases. If the same conditions exist to-day, the principles applied in these cases have a bearing on the present case, and should be given weight to.

The company's dividend rate was not, in the former hearing, treated as an emergency rate, nor was it so regarded by the expert witnesses called by those opposed to the Bell Company's application. Eight per cent was admitted to be a reasonable and proper rate, taking all things into consideration. It is therefore a continuing factor. Two factors, surplus and depreciation, were treated as emergency conditions. The item for surplus was cut in two, leaving a surplus of 2 per cent. A rate of 4 per cent on the average depreciable plant, computed to be approximately 3·64 per cent on the whole plant, was the depreciation ratio allowed.

Unable to agree with the position that the emergency situation no longer exists. The Board, in retaining the conduct of the case, still calls for returns based on the surplus and the depreciation ratio being limited. So far as these

factors are limited by the Board's action, and so long as the Board does not declare them to be factors based on normal conditions, instead of emergency ones, the existing situation cannot be regarded other than as an emergency one. Board should be satisfied, before allowing any increase, that the management of the company is a reasonable and prudent one. The evidence is that the company is well and economically managed. No evidence submitted that the wages paid were excessive. Finds that the company falls some $600,000 short of the revenue the Board intended by its earlier judgment it should receive.

For full text of judgment see appendix "A."

APPLICATION OF THE CANADIAN MILLERS' ASSOCIATION *et al, in re* SUSPENSION OF TARIFFS OR SUPPLEMENTS TO TARIFFS ISSUED IN ACCORDANCE WITH GENERAL ORDER NO. 354.

Chief Commissioner Carvell.—General Order No. 354 required all railway companies subject to the jurisdiction of the Board to file tariffs showing a charge of one cent per 100 pounds for the stop-over privilege on grain for storage, milling, malting, or other treatment, such privilege to be granted for all grain produced in Canada.

The milling in transit case, upon which General Order 354 was based, did not purport, nor was it intended in any way, to interfere with existing rates for out of line haul. The direction, therefore, was that the supplementary tariffs filed by the railway companies. to the extent they applied to the out of line haul on western grain, be suspended, with leave to the transportation companies to apply to the Board for a readjustment of rates if the same be necessary.

APPLICATION OF THE ROBIN HOOD MILLS, LIMITED, MOOSE JAW, *in re* MILLING IN TRANSIT.

Assistant Chief Commissioner McLean.—Sections 1 and 2 of General Order No. 234 provided as follows:—

> "1. That with respect to all grain originally shipped prior to March 15, 1918, the said grain, or the produce thereof, reshipped within six months from the stop-over point shall be entitled to the balance of the through rate existing at the time of the original shipment of the grain under the transit tariffs applicable."
>
> "2. That with respect to all wheat originally shipped on and after the 15th day of March, 1918, the said wheat, or the product thereof, reshipped from the stop-over point west of Fort William before the 1st day of June, 1918, to destinations west of and including Port Arthur and Armstrong, shall be entitled to the balance of the through rate to the said destinations existing at the time of the original shipment of the wheat under the transit tariffs applicable."

A flat fifteen per cent advance was allowed by the Board in what is known as "The Fifteen Per Cent Case", on grain, flax seed and other products, in carloads, in the West, other than the rates to the Lake Superior ports and intermediate points held down by the terminal rates, the effective date of which was postponed until March 15, 1917.

The confusion was with regard to the rate to be applied to grain shipped to and stored in interior terminal elevators prior to March 14, 1918, and later

reloaded and forwarded to the terminals at Port Arthur and Fort William, the applicants claiming that such reshipments should be at the old rate, the railways that the new rate applied.

Written submissions, both pro and con, were filed, and a hearing, at which the applicants and the railways were represented, finally had.

The position taken by the parties fully set forth in the reasons for judgment. The ruling was that the words, " to final destination ", in rule 6-A of the tariff in force when the shipments in question originated, read in connection with the provisions as to reshipments made to Westport, Fort William, Port Arthur and points east thereof, meant the through rate, the inception of which in point of time as defined by the said General Order No. 234 applied to final destination, even if that destination be east of Fort William or Port Arthur.

APPLICATION OF THE CANADIAN NATIONAL MILLERS' ASSOCIATION *in re* EXPORT RATES ON GRAIN PRODUCTS.

The applicants asked that when freight rates were advanced or reduced on grain, the same rates should apply to the products thereof, to prevent discrimination, which it was alleged at present exists.

The situation was that the existing spread in rates facilitated the moving of Canadian wheat to England, which there is ground into flour, to the disadvantage of the Canadian miller.

Held, that while, as a matter of trade policy, it may be advantageous to export the milled product in preference to the unmilled grain, the Board has to approach the matter not from the standpoint of trade, but from the rate standpoint, and has to deal with the question whether the existing rate arrangement is discriminatory, and also whether the rate attacked is unreasonable in itself.

It was brought out in evidence that there was a big movement of Canadian wheat from Buffalo. Three questions involved, namely: (1) Should the rate via Buffalo be taken as a measure of what the export rate to West St. John should be? (2) Are there especial competitive conditions holding down the grain rate? (3) If so, is the flour rate, for export via West St. John, as charged, unreasonable in itself?

It was established that certain competitive conditions had to be met in the case of wheat. The contention was that flour should be treated the same way. Held, that there were special competitive conditions operating in respect to wheat which were not applicable to flour, and that the spreads in rates did not work an undue preference to wheat or an unjust discrimination against flour on the export movement concerned.

Rates on grain and wheat from bay ports to West St. John and Montreal compared, and the effect of the increase allowed under the Board's orders, and the terminal charges on the said rates, considered and discussed.

Held, the existing rate on flour to West St. John not unreasonable.

For full text of judgment see appendix " A ".

APPLICATION EXPRESS TRAFFIC ASSOCIATION OF CANADA FOR APPROVAL OF SUPPLEMENT " B " TO THE EXPRESS CLASSIFICATION.

Supplement " B " to Express Classification No. 5 proposed certain eliminations in respect of the item of returned empties. The grounds upon which it was based were that there had been a disproportionate increase in the volume of returned empties as compared with the actual paying traffic movement, that there had been a considerable increase in the movement of light and bulky

returned packages, and that this did not yield from the returned empty payment revenue commensurate with the space occupied.

The principle in regard to the charge on returned empties, namely, at one-half the rate per 100 pounds charged when full, was decided in the Board's Express Judgment of 1910 after very careful consideration, and that practice continued ever since.

Held, that the Express Traffic Association had not made out a case for the amendment of the classification in regard to returned empties as proposed by it.

Assistant Chief Commissioner McLean delivered the judgment of the Board.

APPLICATION NATIONAL DAIRY COUNCIL OF CANADA *in re* CANCELLATION OF 20 PER CENT INCREASE IN EXPRESS RATES ON CREAM.

Chief Commissioner Carvell delivered the judgment of the Board. The application was for a reconsideration of the 20 per cent increase on cream allowed by the Board's Order No. 327. The application was refused, and an appeal from the Board's refusing order was taken to the Governor in Council. The Governor in Council referred the appeal to the Board for further consideration as to whether or not, first, there should be a reduction on the various other classes of merchandise comprised in the "commodity" group, and if the Board is of opinion that a general reduction of the "commodity" rates cannot consistently be made, then and in such case a specific rate should be fixed for cream.

A further hearing was had by the Board. It has not been the practice to adopt as a principle of rate making that the rate should depend upon the price of the commodity. In other words, that a reduction in the price of the commodity has automatically to carry with it a reduction in the rate. If that principle applied it would logically follow that an increase in the price of commodities would automatically increase the rate. The value of the commodity has a bearing on the fixing of a rate, but an important factor is the cost to the transportation company for adequately performing the service.

The investigation covered the question of the transportation of the various classes of goods included in "commodities". The arrangement between the different express companies and the railways, under which the express companies operate, as also the cost of carriage and the evidence upon these points, discussed and considered.

In arriving at a conclusion as to whether a rate may be reduced or not, or whether the rate is reasonable, regard must be had to the business methods employed by the company in carrying on its business, the wages of its employees, and, generally, that the business is conducted in a reasonable, economical, and business-like manner. It was established that the commodity rates on cream are the lowest of any express rates in existence in Canada—much lower than the first-class freight rate.

Application dismissed.

For full text of judgment see appendix "A".

APPLICATION CARROLL BROTHERS, OF BUFFALO, N.Y., *re* CHARGES FOR SIDING

Judgment, Assistant Chief Commissioner McLean, concurred in by Chief Commissioner Carvell, Deputy Chief Commissioner Nantel, and Commissioners Boyce and Rutherford.

The application asked that the Board fix the charges for the siding into the applicant company's property, and alleged that the charges made by the Grand Trunk Railway Company in respect of the siding discriminated against

the applicants and in favour of their competitors in the business, the Empire Limestone Company, of New York. The applicants are in competition in business with the Empire Limestone Company, and the siding rental charges to the latter company being less than those of the applicants.

The siding and extensions were constructed under agreements between the applicants and the railway company, by the terms of which the applicants were to provide the lands necessary for the spur outside the lands owned by the railway company, and to complete all the works of grading, including culvert and trestle work, which might be required, and also to provide all ties and other materials, the railway company to provide the rails, switches, frogs, fastenings, and signals, and all other iron and steel material needed in the construction of the siding. The company was to lay the track at the expense of the applicants. the applicants to pay to the company interest at the rate of 6 per cent per annum on the value of the rails, switches, etc. The siding is referred to in the judgment as a branch built on the basis of a co-operative construction.

The Board's jurisdiction under the branch lines and industrial spur clauses considered. Held, that the Board had no power to compel the construction of a branch line to serve an industry, under sections 180 to 184 of the Railway Act, 1919; that the cases have decided that a spur line constructed under these clauses does not become part of the railway of the company where the branch is built on the basis of a co-operative construction, already referred to, that, in order to make a branch line part of the railway, it is necessary to use expropriatory powers, that is to say, the railway, acting on the part of the individual concerned, may take steps to expropriate and incorporate the branch line in its own system. The Board has no power to direct the extension of a siding not built under the compulsory construction sections, unless there is expropriation. The branch line in question is within the reasoning of the decisions, and therefore not part of the railway. In the result, the Board is without jurisdiction to make the revision of terms as asked for. As presented, the Board held that the difference in rental terms between the siding agreements with the two companies afforded no criterion of discrimination. Held, that the only section under which the Board could act in the present application was the industrial spur clause, 185.

RE FREIGHT TOLLS, 1922.

Judgment of the Board dated June 30, 1922, concurred in by Chief Commissioner Carvell, Assistant Chief Commissioner McLean, and Commissioners Boyce, Rutherford and Lawrence.

An appeal was taken to the Governor in Council from the Board's Order No. 308, providing for the general rate increase known as the 35 and 40 per cent Case, effective September 13, 1920. His Excellency in Council dismissed the appeal, but expressed the strong view that there should be brought about with the least possible delay equalization of eastern and western rates; and referred the matter back for further inquiry by the Board to determine whether conditions had not so changed in recent years as to make such equalization practicable, and also in determining what constitutes a fair and reasonable rate, without taking into account the requirements of the Canadian National Railway System.

All increases allowed under the General Order No. 308 ceased to exist on July 1, 1922, because of the fact that the amendment to section 325 of the Railway Act, 1919, postponing the operation of the Crowsnest Pass legislation for three years, expired on the 6th July, 1922. In the session of Parliament of that year, the operation of the Crowsnest Pass legislation was suspended

for a further period of one year upon all rates and schedules particularly mentioned, with the exception of grain and flour, the rates upon which, on and after July 6, were to be those provided for in the original legislation; and also gave power to the Governor in Council to extend the provisions of the said Act for an additional term of one year.

Comparison of Canadian and United States freight rates entered into.

Freight rates in Canada were not increased during the first four years of the war, but in 1918 and 1920 substantial increases were allowed, necessary to meet the higher operating costs. The increase in rates authorized in Canada by the Dominion Railway Board did not bear so heavily on the Canadian public as the increases authorized in the United States by the Interstate Commerce Commission. The amounts and effective dates of general increases, as well as decreases, in Canada and the United States, referred to in detail in the judgment. Comparison between United States and Canadian passenger fares also discussed.

The proposal of the railways before the Special Committee of Parliament was that, outside of the question of the rates on grain from the Prairie Provinces to the head of the lakes, any decrease in freight rates in Canada should be confined to what they called "basic commodities," namely, grain and grain products, forest products, coal, building material, brick, cement, lime, plaster, potatoes, fertilizers, ores, wire, scrap iron, pig iron, brooms, and billets.

The suggestion was made by the railways that, in lieu of the Crowsnest Pass agreement, certain named percentage reductions from the present rates be made upon these basic commodities. With that as the basis, and upon the figures submitted, the Board concluded that a reduction of 7½ per cent on the rates now in existence on those basic commodities, less than the increases authorized by General Order No. 308, but not including any reductions heretofore made upon any of the said commodities upon domestic freights in Canada, is as far as the Board should go in the direction of rate reductions.

The question of equalization of rates between the Prairie Provinces and Eastern Canada fully discussed and considered.

Under the Railway Act, not all discriminations or preferences are forbidden. Held, that the railways have satisfied the onus of showing that these discriminations were not unjust or undue, as the railway rates in the east are held down by water competition and American rail competition, something they could not control.

General Order No. 366, dated June 30, 1922, giving effect to the judgment, issued. By this order, a decrease of 7½ per cent from the increase given by General Order No. 308 on these basic commodities other than grain and flour, and any other orders affecting the said commodities issued since that date, the effect of which was to leave the increase granted by General Order No. 308 in Western Canada at 12½ per cent and in Eastern Canada at 17½ per cent. On coal, other than anthracite, and coal from the head of the lakes westward, all increases provided for by General Order No. 308, rescinded. The increase in excess baggage, as provided for in the said General Order No. 308, eliminated. Railway companies to file tariffs putting the rates as prescribed by the judgment into effect. The effective date of the said rates to be August 1, 1922.

For full text of judgment see appendix "A".

APPEALS FROM DECISIONS OF THE BOARD

For the year ending December 31, 1922, there were four appeals made to the Governor in Council, and one appeal to the Supreme Court of Canada, from the decisions of the Board.

With reference to the appeals to the Governor in Council, the following are the appeals and the disposition thereof:—

(1) Appeal of the Corporation of the City of Toronto against the Ruling of the Board (General Order No. 327) with respect to express rates.—*Dismissed, P.C. 562, March 7, 1922.*

(2) Appeal of the National Dairy Council of Canada from the decision of the Board and for an order for the cancellation of the 20 per cent increase in cream rates which was allowed temporarily to express companies on their application of July, 1920.—*Referred back to Board, P.C. 455, March 17, 1922.*

(3) Appeal of the Dominion Millers' Association from the judgment of the Board, dated March 6, 1922, in the matter of flour arbitraries over wheat for export.—*Dismissed, P.C. 2264, October 22, 1922.*

(4) Appeal of the National Dairy Council of Canada on behalf of Canadian Ice Cream Manufacturers from Board's Order No. 28883, respecting express classification of ice cream.—*Pending.*

With reference to the appeal to the Supreme Court of Canada, this was an appeal of the Canadian Pacific Railway Company upon a question of law arising out of the application of the Department of Lands, Forests and Mines, province of Ontario, for an order directing the Canadian Pacific Railway to provide and construct an overhead crossing at its own expense over the right of way between lots 6 and 7, concession 1, township of Eton, Ont., April 1, 1922. The appeal was allowed with costs, question answered in the negative.

ORDERS, GENERAL ORDERS AND CIRCULARS

The total number of orders issued for the year ending December 31, 1922, was 1320. The number of general circulars issued by the Board, directed to all railway companies subject to its jurisdiction, was 2. The general orders as distinguished from other orders of the Board are those affecting all railway companies subject to its jurisdiction, and are 21 in number for the year.

A list of general orders and circulars for the year ending December 31, 1922, will be found compiled under appendix "G" to this report.

APPLICATIONS TO THE BOARD

The total number of applications, including informal complaints made to the Board for the year ending December 31, 1922, was 3348.

TRAFFIC DEPARTMENT OF THE BOARD

In the Traffic Department of the Board the number of tariffs received and filed for the year ending December 31, 1922, was as follows:—

Freight tariffs, including supplements	72,122
Passenger tariffs, including supplements	15,987
Express tariffs, including supplements	1,794
Telephone tariffs, including supplements	4,522
Sleeping and parlor car tariffs, including supplements	342
Telegraph tariffs and supplements	19
	94,786

The total number of schedules filed from February 1, 1904, to December 31, 1922, was 1,132,553.

The details of the tariffs will be found under appendix "B" to this report.

ENGINEERING DEPARTMENT OF THE BOARD

In the Engineering Department of the Board a large number of inspections were made covering the whole Dominion. These inspections for the year ending December 31, 1922, number 280, and cover inspections for the opening of a railway for the carriage of traffic, inspections of culverts, highway crossings, cattle guards, road crossings, bridges, subways, and general inspections falling within the scope of the work of the Engineering Department.

Under Appendix "C" will be found a detailed report of the Chief Engineer.

OPERATING DEPARTMENT OF THE BOARD

Under the work of this department is included the inspection of locomotive boilers and their appurtenances, the inspection of safety appliances on cars and locomotives, the investigations into accidents causing personal injury or loss of life, the reporting on the locations of stations, matters of protection at highway crossings, and train and station service performed by the railway companies.

Under Appendix "D" will be found a full and detailed report of the Chief Operating Officer of the department.

ACCIDENTS AND ACCIDENT INVESTIGATIONS

On reference to the report of the Board's Chief Operating Officer, it will be seen that accidents to the number of 2,588, covering 243 persons killed and 2,856 persons injured, were reported to the Board during the year ending December, 1922, as compared with 1,821 accidents reported for the year 1921, covering 243 persons killed and 1,928 persons injured.

The figures given show:—

(1) Four passengers killed for the year ending December, 1921, and 5 passengers killed for the year ending December, 1922, an increase of 1; and the number of passengers injured was 240 in 1921, as compared with 376 in 1922, an increase of 136.

(2) The number of employees killed was 91 in 1921 and 83 in 1922, a decrease of 8, and the number of employees injured was 1,344 in 1921, as compared with 2,084 in 1922, an increase of 740.

(3) The number of others killed was 148 in the year 1921 and 155 in the year 1922, an increase of 7, and the number of others injured was 344 in 1921, as compared with 396 in 1922, an increase of 52.

It is pointed out that out of 155 others killed, 71, or 46 per cent, were trespassers, and that out of 396 others injured, 90, or 23 per cent, were trespassers.

The following is a table giving the comparison between the total number of passengers carried by the railway companies, and the number of passengers killed and injured, and the same information as to employees. Figures giving the total number of passengers carried and employees are for the year ending

1921, the last figures available, and are taken from the Railway Statistics published by the Transportation Branch of the Dominion Bureau of Statistics:—

Passengers—	
Number of passengers carried on railways	46,793,251
Number of passengers killed	5
Number of passengers injured	376
Employees—	
Number of employees with railways	167,627
Number of employees killed	83
Number of employees injured	2,084
Trespassers—	
Number of trespassers killed	71
Number of trespassers injured	90

It will be noted that of what may be termed preventable loss, there were 71 killed under the heading "Trespassers" and 90 injured. This is an increase of 7 in the number of killed and a decrease of 1 in the number injured as compared with the year ending December, 1921.

The following table shows the total by provinces as regards trespassers killed and injured for the year ending December, 1922:—

Province—	Killed.	Injured.
Nova Scotia	1	1
New Brunswick	1	–
Quebec	18	20
Ontario	43	42
Manitoba	1	3
Saskatchewan	3	6
Alberta	2	7
British Columbia	2	11
Total	71	90

Attention is again directed to the statement setting out in detail the situation as regards highway crossing accidents during the past five years. It will be observed therefrom that there has been a total of 821 accidents, covering 293 persons killed and 991 injured.

Crossings protected by gates accounted for 2[illegible] killed and 66 injured.
Crossings protected by bell accounted for 39 killed and 99 injured.
Crossings protected by watchman accounted for 11 killed and 41 injured.
Crossings unprotected accounted for 223 killed and 785 injured.

There have been 194 accidents at protected crossings covering 70 persons killed and 206 persons injured, and at unprotected crossings there have been 627 accidents covering 223 persons killed and 785 persons injured.

During the year ending December, 1922, there were 183 accidents at highway crossings covering 66 persons killed and 237 persons injured, as compared with 189 accidents in 1921 covering 70 persons killed and 214 persons injured.

Automobile accidents totalled 109, divided as follows:—

At crossings protected by gates	2
At crossings protected by watchman	2
At crossings protected by bell	10
At crossings unprotected	95

Horse and rig accidents numbered 46, made up as follows:—

Gates	0
Watchman	2
Bell	6
Unprotected	38

Pedestrian accidents numbered 28, as follows:—

Gates	7
Watchman	3
Bell	1
Unprotected	17

It will be observed from the above that 33 out of a total of 183 accidents occurred at protected crossings, leaving unprotected crossings to account for 150 accidents.

Full particulars of passengers and employees killed and injured, and other general information in regard to trespassers killed and injured, accidents at protected and unprotected crossings, etc., will be found under appendix "D".

FIRE INSPECTION DEPARTMENT OF THE BOARD

As in former years, the local inspection of the Fire Inspection Department has been handled under co-operative arrangements made with the several Dominion and provincial forest-protective organizations on the ground. During the year, 97 officials or employees of such organizations acted, under authority of the Board, as local officers of this department, under the direction of the Chief Fire Inspector.

On April 19, 1922, the Board issued General Order No. 362, revising and amending the railway fire regulations contained in General Order No. 107, the latter order being thereby superseded. The new order contains several important changes.

During the early spring, complications arose with regard to the class of coal used as locomotive fuel on certain of the Canadian National lines in the Prairie Provinces and eastern British Columbia. The protracted strike of union coal miners in northern Alberta made it impossible for the railway to secure adequate supplies of the usual grades of bituminous coals, and it became necessary, in order to maintain train service, for the Board to suspend the provisions of regulation 8 of General Order No. 362, and permit the use of non-coking grades of coal in non-forested sections of the Prairie Provinces, it being stipulated that coking grades of coal should continue to be used in forest sections. Pending this readjustment, a large number of early spring fires, attributed to locomotive sparks, occurred on certain of the Canadian National lines in northern Alberta and eastern British Columbia. Fortunately, most of these fires were small, but some escaped and caused damage. Efforts have been made by the railway management to develop a spark-arresting device that should work satisfactorily with light-bodied, non-coking coals, but these experiments have not yet reached more than a partially satisfactory conclusion.

The requirements relative to the maintenance of special fire patrols and the reporting and extinguishing of fires have, on the whole, been well observed by the railways. Substantial progress has been made in the matter of freeing railway rights-of-way from unnecessary combustible matter.

During the year, 9,897 miles of fireguards were maintained by the railways in non-forested sections of the Prairie Provinces, in accordance with the requirements of the Chief Fire Inspector.

A total of 1,598 fires from all causes were reported as originating within 300 feet of railway lines in forest sections, subject to the Board's jurisdiction throughout Canada. Of these, 759 or 47·5 per cent covered an area of less than one-quarter acre each and did no damage. Of the grand total, 75·4 per cent were definitely attributed to railway causes, 7·5 per cent to known causes other than railways, and 17·1 per cent to unknown causes.

A total area of 118,012 acres was burned over. Of this, 89·9 per cent is chargeable to railway agencies, 4·5 per cent to known causes other than railways, and 5·6 per cent to unknown causes.

The total damage by all these fires is estimated at $222,593; of this the railways are charged with 83·9 per cent, while 3·8 per cent is due to known causes other than railways, and 12·3 per cent to unknown causes. This constitutes an increase over the railway fire losses for the previous year, due to the more hazardous weather conditions and to the fact that one fire was allowed to escape control and cause heavy losses in timber values destroyed. Otherwise, the railways have done exceptionally well in handling their fire problems.

ROUTINE WORK OF THE BOARD

RECORD DEPARTMENT

Below is given a table setting forth the number of applications, filings and letters received during the year ending December 31, 1922, together with the number of orders issued:—

Number of applications made	3,348
Number of filings received during the year	34,749
Number of outgoing letters during the year	23,440
Number of orders issued during the year	1,320

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA

RECORD ROOM

STATEMENT—showing the applications made to the Board under the various Sections of the Railway Act, for the year ending December 31, 1922.

Sections of Railway Act	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Totals
Rescinding of orders, sec. 34	4	9	2	6	7	10	3	11	6	8	1	4	71
Rules and regulations, secs. 34, 281, 287, 290, 296									1				1
Extension of time, sec. 41	2	6	3	4	9	7	5	6	7	7	2		58
Location of line, secs. 167-177	1	3		3	4	1		2	1	1	1		17
Route map, sec. 167						1		1		1			3
Railway as constructed, sec. 175	3	1	2		2	1	2			2	2		15
Deviation of line, sec. 178	1	2	6	1	5	2	1	1	1				20
Mines and minerals, secs. 194-198			1										1
Expropriation of lands, secs. 189-192			1						1	2			4
Appeals against Board's decisions	1		1	1						1			4
Compensation for damage, secs. 213-221												1	1
Branch lines railway, secs. 180-187	24	14	5	9	17	19	17	22	17	14	25	12	195
Railway crossings and junctions, secs. 252-254	1	2	1	2	2	1	3	2	3	3	1	2	23
Interlocking applicances, sec. 252		4	3	4	2	7	3	4	3			1	31
Highway crossings, secs. 255-267	24	13	9	21	11	25	17	17	11	18	11	8	185
Highway diversion, sec. 256	2		4	4	1	1	3	1	1	2	3	4	26
Protection at crossings, secs. 257-267	16	9	9	5	9	9	8	22	29	23	19	23	181
Telegraph and telephone lines, sec. 367												3	3
Telegraph and telephone Connections, sec. 371		1	2	2	1	2		1		1			10
Telephone wire crossings, sec. 372						1			2	3	4		10
Power wire crossings, sec. 372	1	1		3		1	2	2	2		2		14
Telephone agreements, sec. 375	12	7	8	5	7	5	15	12	5	3	8	10	97
Canals, ditches, etc., secs. 268 271		5								1	1		7
Water pipes, sec. 269	1						1		1		1		4
Sewers, sec. 260			3	2	1		2	2	4	1			15
Culverts, sec. 269				1	1			1		1		1	5

STATEMENT—showing the applications made to the Board under the various Sections of the Railway Act, for the year ending December 31, 1922—*Concluded*

Section of Railway Act	Jan.	Feb.	Mar.	Ayril	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Totals.
Farm crossings, secs. 272-273	2	4	.....	.....	1	5	3	1	1	3	2	4	27
Protection farm crossings, sec. 275	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	1
Cattle-guards, sec. 274	.....	.....	1	.....	.....	.....	2	1	1	.....	.....	.....	5
Fencing of right-of-way, sec. 274	1	1	3	22	3	1	5	1	8	4	9	4	62
Bridges, secs. 249-251	20	10	4	8	42	12	47	45	5	13	10	9	225
Tunnels, secs. 249-251	.....	.....	3	.....	1	.....	.....	.....	.....	.....	.....	.....	4
Stations, sec. 188	1	10	9	1	7	7	5	9	20	5	5	7	86
Condition of stations, sec. 188	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	1
Station accommodation, station agents	8	3	9	10	11	5	4	7	3	1	2	2	65
Opening of railway secs. 276-277	1	1	.....	.....	1	.....	2	.....	5	3	5	.....	18
Condition of railway, sec. 283	2	3	1	2	9	7	3	4	6	3	3	1	44
Rolling stock, secs. 298-301	1	.....	3	1	7	5	6	3	2	2	1	.....	31
Train service	4	2	4	4	7	.....	7	2	5	4	1	.....	40
Working of trains, sec. 287	3	2	1	13	4	1	1	1	.....	1	1	.....	28
Obstructions to Traffic, sec. 311	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	2
Accommodation for Traffic, sec. 312	2	5	11	5	2	2	2	4	3	2	1	6	45
Dangerous Commodities, secs. 349-350	.....	.....	.....	.....	.....	.....	.....	.....	.....	2	.....	.....	2
Accident Reports, secs. 285-286	51	63	63	46	76	79	50	71	39	68	70	60	736
Thistles and Weeds, secs. 279-280	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	1
Fires from locomotives, secs. 280-281-287-387	.....	.....	1	.....	.....	.....	4	1	10	5	.....	.....	21
Interswitching, secs. 316-337	1	1	3	1	2	1	.....	.....	2	2	.....	1	14
Freight Classification, sec. 322	.....	.....	1	.....	2	.....	.....	.....	.....	.....	.....	.....	3
Disallowance of Tariffs, sec. 325	.....	2	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	2
Standard Freight Tariffs, sec. 330	.....	1	2	.....	1	1	1	.....	3	.....	.....	.....	9
Standard Passenger Tariffs, sec. 334	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	1
Adjustment in Rates	6	3	6	1	7	3	5	5	6	10	6	4	62
Special Freight Tariffs, sec. 331	1	1	.....	.....	1	1	.....	2	4	1	1	2	17
Special Passenger Tariffs, sec. 335	1	.....	2	2	.....	.....	1	1	1	3	1	.....	12
Provisions for Carriage, secs. 344-348	.....	.....	.....	.....	.....	.....	.....	.....	1	1	2	2	6
Express Tolls, secs. 360-366	.....	1	.....	1	.....	3	.....	5	.....	4	1	.....	15
Carriage by Express, sec. 364	1	3	1	.....	3	1	2	.....	2	2	.....	.....	15
Telephone Tolls, sec. 375	.....	.....	.....	2	1	1	.....	.....	1	.....	.....	.....	5
Amalgamation Agreements, secs. 151-153	.....	1	.....	1	.....	.....	.....	.....	1	2	.....	3	8
Traffic Agreements, sec. 154	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	1
Statistics and Returns, secs. 379-384	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	2	.....	3
Claims and Refunds	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	.....	.....	1
Enquiries	10	8	12	6	13	7	11	8	8	4	3	1	91
Complaints	36	47	47	46	52	45	34	40	41	39	54	33	514
Miscellaneous	7	12	15	32	11	8	11	7	3	5	5	8	121
General Orders of the Board	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	1	1	3
Totals	253	261	263	277	343	289	290	325	277	283	273	214	3,348

APPENDIX "A"

PRINCIPAL JUDGMENTS OF THE BOARD FOR THE YEAR ENDING DECEMBER 31, 1922

APPLICATION OF BAROME ROCHON, *re* DRAINAGE CANADIAN PACIFIC RAILWAY COMPANY.

Judgment Mr. Commissioner Boyce, January 4, 1922, concurred in by Chief Commissioner.

In the year 1887, shortly after the construction of its line between Port Arthur and Winnipeg, the Canadian Pacific Railway Company, in order to avoid having to put in an expensive culvert, and to give them a more stable and solid road-bed, diverted from its original and natural outlet, (shewn "A" on plan filed) a stream, fed by a number of lakes (one of these being War Eagle lake), discharging into Darlington bay of Winnipeg river, north of the tracks of the Canadian Pacific Railway just west of Keewatin, and carried the water thereby arrested in its natural flow, through the low lying lands, south of the railway, where is now the applicant's farm, block 232, known as lots 5 and 7, in the first concession of the township of Keewatin, thence through a deep rock cutting (shewn marked "B" on plan), into a swamp (marked "C" on plan), thence by means of a tunnel under the railway at a point marked "D" on plan, back to Darlington bay.

It is alleged that in the course of this diversion sufficient provision was not made for artificially carrying off the water which, theretofore, had been drained off by natural flow.

The complainant did not acquire his holdings until many years after the diversion was made—his location being made about 1905-06 or 07; his patent issued some years later, but complainant alleges that when he took up the farm he now occupies, and in respect of which he complains, the railway was a single track road, and the dump, built of large boulders, permitted the water not taken care of by artificial means, to seep through the dump somewhat along its natural course, so that, as he says in his evidence at the hearing (Vol. 359, p. 5317) when he took the land up (in 1905-6 or 7), "It was nice and dry, except the creek"—(meaning the water course as diverted). At the time, he says, most of the water ran through the dump (then a single track) and hardly any water went through the diversion. He states that in the Spring of 1907 he farmed part of the land now under water.

The basis, then, of the complaint is that in 1906-7 the railway was double-tracked, and that in the double tracking the dump theretofore permitting surplus water to pass through was so closed up that no water could get through and the diversion failed to carry it off, thereby flooding about four acres of the complainant's lands every year since the dump for double tracking was completed. The gist of the complaint, therefore, seems to be that the diversion made by the railway in 1887 was never really tested as to its efficiency in carrying off the water until the dump for the double track was built ten years later, thereby arresting the seepage through the dump of what water the diversion was unable to carry. In other words that the insufficiency of the diversion to carry off the water as the natural water course had theretofore done did not become apparent until the outlet for the surplus water through the single track dump became closed by the solidifying of that dump to carry the double track, then when the work of carrying off the whole of the water drained by the original water course was thrown upon the diversion, or artificial channel con-

structed by the railway, the diversion failed, it proved inadequate, and the complainant's lands, to the extent mentioned, have been flooded year by year ever since.

The evidence of the complainant is corroborated by two witnesses—one, Duncan Beeton (p. 5321), who has resided in the vicinity since 1880, who knows the particular locality, and who says that after the single track of the railway was completed the water continued to flow through the dump, and that no water flows through there now. He speaks of the rock cutting being only four feet wide, and obstructed by rocks. That this cut could be made better by being cleaned out, and that he has seen Rochon's land flooded.

To the same effect is the corroborative evidence of Sydney Pearson (p. 5326), who also says that since the double-tracking all the water that flowed from War Eagle lake and the adjoining lakes west flowed under the track, that is, before the double tracking, and that since the double tracking no water flows through the dump, the land on the north side of the dump being dry since the double tracking.

The evidence of the complainant, who is an old resident of the district, and has lived on the land since he took it up—or since prior to 1907—and of the other two witnesses is not controverted by the railway company, which relied upon the evidence of its engineer as to the sufficiency and adequacy of the diversion to carry off the water. The evidence shows that the creek was about eighteen feet wide originally, and that, as a result of its diversion by the railway company, it is carried through a rock cutting but four feet wide. Whether this is deep enough to carry off all the water compressed into it from an eighteen-foot stream is open to some question, but the photograph of the cut submitted shows that the water comes through it very rapidly, and that there are obstructions to its easy passage. The depth of the rock cutting, the engineer says, is the same depth as the creek, so that it is obvious that there was, as a result of the diversion, a great compression in the original flow from eighteen feet to four feet at this point.

I would find as a fact upon the evidence before the Board that at the time the complainant located and entered into possession of his farm, the water was drained therefrom, partly by the diversion, and partly by seepage along the natural course of the stream, and that there was then no overflow or flooding of the land as that now complained of. That since the dump of the railway was altered to provide double tracks, the seepage along the original course of the stream, and which had acted as an auxiliary to the diversion up to that time, was stopped and the whole drainage was thrown upon the diversion, and that the diversion works failed to entirely carry it off, with the result that a portion of the complainant's land, about four acres, which was dry before the dump was altered, was flooded year by year since the double track dump was completed.

Whether the diversion is capable, if thoroughly cleaned of rock and silt obstructions, of giving adequate drainage, so as to leave the land as dry as it was when the complainant first occupied it, may be in some doubt. The railway company argues that there is no duty cast upon it to clean out the rock cutting made by it, as part of the diversion, or otherwise, and generally to remove all obstructions and accumulations which may check the free flow of the diverted stream. I am, however, unable to agree with this contention. Where the railway company, for its own purposes, diverts or changes a natural water course, some duty is cast upon it to see that the substitution of the artificial channel does not materially affect the utility of the natural course, or, in the language of section 163, of the present Railway Act—formerly section 155 of R.S.C., Chapter 37:—

> "The company shall restore, as nearly as possible, to its former state, any river, stream, watercourse, highway, water pipe, gas pipe, sewer or

> drain, or any telegraph, telephone or electric line, wire or pole, which it diverts or alters, or it shall put the same in such a state as not materially to impair the usefulness thereof."

and to the same effect in section 268 of the present Act carried from section 250 of the former consolidation:—

> "The company shall in constructing the railway make and maintain suitable water pipes, flumes, ditches and drains along each side of, and across and under the railway, to connect with water pipes, flumes, ditches, drains, drainage works and watercourses upon the lands through which the railway runs, so as to afford sufficient outlet to drain and carry off the water, or to convey the water supply, *and so that the then natural, artificial or existing drainage, or water supply, of the said lands shall not be obstructed or impeded by the railway.*"

There was, as appears from the evidence a flooding of the complainant's land immediately following, and I think as a result of the construction by the railway of another dump to carry a second track or line of railway, and the drainage affecting the complainant's lands existing prior to such construction were not restored to its former state, but, on the contrary, the usefulness of the drain or watercourse was thereby materially impaired, and the existing drainage thereof was, and is, obstructed or impeded.

The legal principles involved are fundamental. I refer to such cases as—

Ostrom v. Bills, 24 A.R. 526; 28 S.C.R. 485.
Young v. Tucker, 26 A.R. 162.
Hamelin v. Bowerman, 31 S.C.R. 534.
Ward v. Grenville, 32 S.C.R. 510.
G.T.R. v. Miville, 14 L.C.R. 469.
Carron v. Great Western Ry. Co., 14 U.C.R. 192.

Where these are discussed, and the provisions of statute to which I have referred would render it more than ever necessary that the railway company should take care of all water brought down upon its lands at the time the railway is constructed.

The duty incumbent upon the railway company is, I think, clear, as it also appears from the evidence that it has not fulfilled that duty as regards this watercourse. The railway company cleared it out once, while protesting that it was not its duty to do so.

If the obstruction of the diversion causes the flooding and not the insufficiency or inadequacy of the diversion itself, the railway company should have an opportunity to demonstrate that condition by clearing the channel it made to divert the stream of every obstruction. If that work results in efficiently draining the complainant's land to the same extent as it was when he first occupied it, and before the double tracking of the railway, no further Order need be made by this Board, it being understood that the drainage will be so maintained by the railway. If, on the other hand, it is demonstrated by a further examination under the direction of the Board, after the diversion has been cleared of obstruction by the railway, that the flooding results from insufficiency or inadequacy of the diversion, or of any part thereof, the matter may be dealt with further upon notice to the parties.

The Railway Company will be required to thoroughly clean out the watercourse it constructed and remove therefrom all boulders, rock, silt, or other obstruction, or impediment to the flow of water, this work to be done, subject

to the approval of an Engineer of the Board, as early as conditions will permit next Spring; the work to be completed by May 1, 1922.

As to any further order the matter will stand for further report from the Engineers of the Board upon the effect of the above work.

Order should go as above.

APPLICATION CITY OF REGINA, *in re* PROTECTIVE DEVICES AT CROSSINGS, CANADIAN NATIONAL RAILWAYS.

Judgment Mr. Commissioner Rutherford, January 10, 1922, concurred in by Assistant Chief Commissioner.

These applications were heard at Regina on November 4, 1921. The case for the city of Regina was based on the fact that by the Board's Order No. 31357 of date August 5, 1921, an electire bell and wig-wag signal were installed at the crossing of Seventh avenue by the Canadian National Railways' line running along Smith street.

The city of Regina claimed at the hearing that the crossings situated respectively at Dewdney street and Smith street and at Eighth avenue and Smith street, are even more dangerous than that at Seventh avenue and Smith street, at which latter crossing the railway company has been required by the Board to instal an electric bell and wig-wag signal.

Mr. Temple, on behalf of the Canadian National Railways, admitted at the hearing that the Dewdney street crossing is, on account of the greater volume of traffic, more dangerous than that at Seventh avenue, which latter is now protected. He asked that the Board should for the present, limit the proposed additional protection to the Dewdney street crossing, no additional protection being considered necessary at the Eighth avenue crossing.

The Assistant Chief Commissioner directed that the city should furnish the Board with the traffic statistics at the two crossings, namely Dewdney street and Eighth avenue, for a period of forty-eight hours, and after an inspection by the Board's Division Engineer, the applications would be given due consideration.

The traffic statistics since received indicate clearly that the crossing at Dewdney street is the most important, the total pedestrain and vehicular movement over it for the forty-eight hour period being 3,065, as against 1,110 at Seventh avenue, already protected.

Further, while the traffic statistics show that the movements at Dewdney street are considerably greater than those at Eighth avenue, which latter lies between Dewdney street and Seventh avenue, this is doubtless chiefly due to the fact that Dewdney street is paved while Eighth avenue is not.

The Board's Division Engineer has reported that all three crossings, namely Seventh avenue, Eighth avenue and Dewdney street are dangerous to the travelling public, the last mentioned being considerably more dangerous than either Seventh or Eighth avenues.

I am therefore of opinion that similar protection to that now installed at Seventh avenue, should be required at both Eighth avenue and Dewdney street, the signals at all three crossings to be operated by the same bonding, and the cost of installation to be borne by the Canadian National Railways, less the usual 25 per cent advance from the Railway Grade Crossing Fund.

SESSIONAL PAPER No. 33

In re DISCONTINUANCE OF SERVICE RED MOUNTAIN RAILWAY AND ABANDONMENT OF LINE.

Judgment of Assistant Chief Commissioner, January 24, 1922, concurred in by Commissioner Rutherford.

Under date of June 15, 1921, a letter was filed on behalf of the Red Mountain Railway Company stating that said line had been operated by the Great Northern Railway Company for a long time past, and statements were enclosed showing that such operation had been at a loss. The Great Northern Railway Company, it was stated, had decided to discontinue the operation of the Red Mountain line and take up the rails and other equipment, with a view to permanent abandonment of the enterprise; and it was intimated that the company contemplated the ceasing of operation at midnight on June 30, 1921. It was stated, further, that formal notice had been given to various public bodies.

In the statements which were attached to the letter, details as to freight and passenger and other operating revenues were given, as well as details in regard to operating expenses, taxes and net revenue. The details in question cover the years 1898 to 1920, for the period ending June 30th in each year.

The line in question is 9·47 miles in length, extending from the international boundary at Patterson to Rossland. The capital stock per mile outstanding is $43,569.

In the details as above referred to, it appears that from the period 1898 to 1908 there was, after paying operating expenses and taxes, a net annual revenue averaging during the period in question $18,298.

From 1909 to 1920, there was in every year a deficit, the average annual deficit amounting to $24,388.

The figures as given down to 1918 are in accordance with the returns as published in the Dominion Railway Statistics. As pointed out, the figures are shown for the years ending June 30. Since 1919, the Dominion Government returns are published for the year ending December 31. In the statement of the company as filed, the years 1919 and 1920 ending, as indicated, June 30, show deficits of $30,224 and $42,226 respectively. If the returns for the calendar years 1919 and 1920, as set out in the Government Statistics are taken, the respective deficits for 1919 and 1920 are $28,905 and $40,943.

Thereafter, complaint was received from the Rossland Board of Trade asking whether the railway company had a right, under the charter, to discontinue the service, and asking for a hearing.

A telegram was received from the Board of Trade of Trail objecting to the discontinuance of the service and abandoning of any portion of any branch line, if such discontinuance or abandonment interferes with the public or is likely to hurt the development of the province.

Thereafter, a considerable number of communications were received from different Boards of Trade and parties interested. The British Columbia Government, through a telegram from the Premier, joined with the Rossland Board of Trade in protesting against the proposed abandonment of portion of the Red Mountain Railway. Thereafter a telegram to the Premier and to various parties who had submitted communications was sent out by the Chairman of the Board, the material portion of which telegram is as follows:—

> "As we view the law, we are unable to prevent a company from removing rails; if you have authority for different view we would be glad to have it cited."

A telegram from the Rossland Board of Trade dated June 27 stated that formal application for hearing in the matter of discontinuance of the service on the Red Mountain Railway on points of insufficiency of notice and merits was being forwarded to the Board, and asked that the railway company be asked to continue the service pending hearing. A subsequent telegram of June 28 directed the Board's attention to section 312 of the Railway Act as bearing on the matter.

Under date of June 30, the secretary of the Rossland Board of Trade was advised that section 312 of the Railway Act had been considered before communication was sent by the Board and the telegram of June 24 already referred to. The Board stated it had no power, under its construction of the law, to direct continuance of the service pending hearing; but it was stated that on account of the urgency of the matter the application could be heard at Ottawa on July 6.

Under date of July 4, the Board received a telegram from the Rossland Board of Trade criticising the basis on which the figures of operating costs were made up, criticising the insufficiency of notice, and contending that the Board had powers sufficiently broad to prevent the discontinuance of the service.

At a later date, the Board was asked for a hearing of the matter when sittings were being held in the West; and arrangements were accordingly made which resulted in the sittings at Nelson on October 29, 1921.

As already set out, the Board indicated at the outset its view that the Railway Act did not authorize the Board to prevent discontinuance of the operation, including the removal of rails. This was in accordance with a number of rulings which the Board had made construing the Railway Act in this regard. At the sittings in Nelson, these rulings were referred to by Counsel for the railway company who relied upon them. Counsel appearing for other parties interested not having directed their attention to the question of the limitation of the powers of the Board in this regard were given an opportunity to file written submissions after the authorities had been considered.

It is patent that the fundamental matter is the jurisdiction of the Board. The course of the proceedings indicates that those protesting against the action of the railway were of opinion, first, that the sanction of the Board is a condition precedent to the removing of tracks and discontinuance of the service by the railway; and, second, and necessarily flowing from the point of view set out, that the Board had authority to refuse such application.

An analysis of the findings which the Board has given in other cases is material to the proper understanding of the limitation of the Board's powers.

In 1915, the Board received a communication from counsel for the Great Northern Railway Company (file 25461), stating that the Great Northern Railway Company proposed to entirely abandon the operation of the Bedlington and Nelson line between Port Hill, Idaho, and Wynndel, B.C. The legal status of the matter was checked up by the Board's Legal Department, which advised as follows:—

> "Since your memorandum to me of January 22, letters from the general solicitor of the company and Mr. Haydon, dated January 14 and January 22, respectively, have been added to the file, in which it is stated, as you will note, that it is the intention of the company to abandon the portion of railway in question.
>
> "Unless the failure to operate is in violation of an agreement on the part of the company, there is no provision in the Railway Act dealing with a case where the company ceases to operate, except where it goes into insolvency. The Great Northern Railway Company appears to be opera-

ting the Bedlington and Nelson, as the owners of or having a controlling interest in the stock of the Canadian company, and operate under the name and as the Bedlington and Nelson Railway. There is no record of any amalgamation agreement between the two companies.

"In the case of Darlaston Local Board vs. L. & N.W. Ry., 63 L.J., Q.B. 826 (1894); 8 Railway and Canal Traffic Cases, 216,—it was held that the Railway Commissioners had no jurisdiction to order a railway company to rebuild and reopen for passenger traffic a station which the company had closed and pulled down, the reasonable facilities for traffic which, by s. 2 of the Railway and Canal Traffic Act, 1854, a railway company is required to afford, having no application to stations that are not in use.

"Per Lord Esher, M.R., and A. L. Smith, L.J.; Unless a railway company is required by its Act to keep open its line and stations, it is entitled to close any part of its line or any of its stations whenever it desires to do so. Per Kay, L.J.; Even if the duty to afford reasonable facilities applied to a station which had ceased to be used, that duty could not require the opening of a station which had been closed in consequence of the railway company finding that its continuance involved a heavy loss

"The incorporating Act of the Bedlington and Nelson Ry. Co. does not require it to keep open its line of railway."

Under date of February 2, 1915, the secretary-treasurer of the Board of Trade of Creston, B.C., was written to as follows:—

> "Referring to your complaint herein under date of the 15th January last, I am directed to say that the Board has received a statement from the Great Northern Railway Company to the effct that it is the company's intention to entirely discontinue operating the Bedlington and Nelson line and eventually to remove the railway track. Also to state that the Board has no power to force the company to operate under these circumstances and therefore the Board is afraid it can be of no further assistance to you in this connection."

The matter again came up in connection with the same railway at a hearing in Vancouver on June 2, 1915 (Board's file 26019). The railway asked informally whether an order was necessary permitting the company to take up the rails, but no order was made; and as a result of some questions subsequently arising, a letter was written by the former Chief Commissioner, Sir Henry Drayton, to the Minister of Railways, under date of April 17, 1918. A question had been raised in regard to the powers of provincial parliaments to expropriate for highway purposes abandoned railway rights of way. This is not material to the discussion; but the explanation of the limitation of the Board's powers, as set out in the following extract from the letter on file, is material:

> "This is one of those cases in which it is very hard to do anything. The Great Northern did operate this branch line from Bonner's Ferry, Idaho, to a point in British Columbia territory. The branch is known as the Bedlington and Nelson Railway.
>
> "The earnings from the line have been so small that it did not pay to operate, and the company determined to save further losses by abandoning all operation. Operation was abandoned some time in 1915, and the company expressed itself as being perfectly willing to sell the abandoned right of way, at a reasonable price, to adjoining land owners.

"In April, 1917, the Provincial Surveyor of Taxes and Inspector of Revenue wrote stating that he had been informed by the Right of Way and Tax Agent of the Great Northern Railway Company that the rails of the line were taken up during the year 1916, and that the line no longer existed as a railway; and asking the Board whether it had made any order permitting this to be done.

"No order was made by the Board and the department was so advised: There is nothing in the Act which compels a railway company to continue to carry on a railway venture in which it is continuously losing money. It has been left to the business judgment of the railway company to determine whether it is going to scrap its investment, with the very large attendant losses on the one hand, or to determine whether it had better, in the hopes of some day saving its investments, make further temporary losses."

Under date of January 15, 1918, the Board was advised by the Great Northern Railway Company that it proposed to lift trackage of $1\frac{1}{4}$ miles on the New-Westminster Southern Railway, and the Board was asked whether it would take jurisdiction for the removal of the tracks. The railway company was not able to point out any section under which the Board had jurisdiction, and the applicant was advised in the same terms as are set out in the letter to the secretary-treasurer of the Board of Trade of Creston, B.C., already referred to.

The matter was again before the Board in 1919, Board's file 1,333, what was involved being the discontinuance of the train service on the Phœnix Branch of the V.V. & E. Railway, Grand Forks to Phœnix. On direction, the railway was advised by letter from the secretary as follows:—

"That, where the company has decided to abandon entirely the operation of its line of railway and take up the rails, as is proposed in the present instance, unless such action is in breach of an agreement to operate, there is no provision of the Railway Act under which the Board can restrain the company from doing so. This was the conclusion arrived at in the case of the Bedlington and Nelson Railway (File No. 25461). The new Act does not enlarge the powers of the Board in this regard."

The construction of the statute as above set out shows that there is no provision in the Railway Act requiring a railway which is steadily running behind to make application to the Board for removal of tracks and discontinuance of service; and it shows, further, that the Board is, on such a state of facts, not given any authority to prevent discontinuance of service and removal of tracks.

The position of the railway company from the standpoint of revenue has been set out. Exception is taken by the Rossland Board of Trade to the basis on which the figures are computed, it being contended that Rossland is not given sufficient credit. The figures, however, are the official figures filed with the Government authority dealing with railway statistics, and submitted under the provisions of the legislation appropriate thereto. The Board has in the past used the statistics so submitted by the railways in connection with analyses of costs, and I am of the opinion that the statistics here submitted in accordance with the rules and classifications in force are a proper basis on which to study the condition of the railway.

As pointed out, an opportunity was given to file written submissions: A submission filed by Counsel for the Rossland Board of Trade sets out that the Red Mountain Railway Company was incorporated by chapter 61 of the Statutes

of British Columbia of 1893, and that in the preamble of the Act it was recited that it was in the interests of the public that the railway should be constructed and "maintained". Reference is made to section 11 of the Act. The material portion of this section, so far as the argument is concerned, reads:—

> "The company may lay out, construct, build, equip, maintain and continuously work a line of railway.. .. .. .."

Emphasis is laid on the word "continuously" as being material.

By the Dominion Statutes, 58-59 Victoria, chapter 60, an Act respecting the Red Mountain Railway Company, said railway was given a Dominion charter and was declared to be a work for the general advantage of Canada. The written submission of counsel for the Board of Trade refers to section 2 of this Act. This section, after providing that the Special Act of the Dominion and the Railway Act of Canada shall apply to the company and its undertaking instead of the Special Act of British Columbia and the British Columbia Railway Act, continues:—

> "Provided, that nothing in this section shall affect anything done, any right or privilege acquired, or any liability incurred under the last mentioned Acts of the Legislature of British Columbia up to and at the time of the passing of this Act, to all of which rights and privileges the company shall continue to be entitled, and to all of which liabilties the company shall continue to be subject."

It is contended by counsel that under this section "one of these liabilities was to operate the railway and it is submitted *continuously*, but at all events to operate it." It is not claimed that the Dominion Special Act, independent of its inter-relation with the Provincial Special Act, carries any obligation as to continuously working.

It is to be noted that the provision in the Provincial Special Act is permissive, not imperative; and it would not appear that the words "continuously work" in section 11 of the Provincial Act of incorporation carry the obligation of the company any further than the authority to maintain the railway usual in special Acts, and as was the case in *Darlaston Local Board vs. London & N.W. Ry. Co., 8 Railway and Canal Traffic Cases, 216.*

Reference is also made to section 398 of the Railway Act of 1919, which deals with penalties:—

> "Any company or person who, without consent or order of the Board, removes any spur or branch line constructed under or pursuant to this Act for the purpose of affording railway facilities to, or in connection with, any industry or business established or intended to be established, shall be liable on conviction to a penalty not exceeding one thousand dollars."

The submission sets out: "It would appear from this that the company must get permission from the Board before removing a branch line or spur, and as nothing is said about the main line it is submitted that the main line cannot be removed even by consent of the Board."

Section 398 of the Railway Act is a new section included in the Act of 1919. The wording of it shows, e.g., "in connection with any industry or business established or intended to be established," that what is concerned with especially refers to section 187, which prohibits the removal, without consent of the Board, of a branch line or spur constructed under sections 185-186. These are the sections dealing with forced construction. The railway herein involved in no way falls within the scope of the section with which Section 398 is concerned.

Reference is made to section 312 which deals, *inter alia*, with facilities. In *Darlaston Local Board vs. L. & N.W. Ry. Co., 8 Ry. & Can. Traf. Cas., 216*, it was held that if the railway company was not bound by its special Act to make or maintain the railway, the facility clause or clauses could not be drawn upon by the Railway Commissioners. It does not appear that power to act under section 312 can be inferred, in the present case, to order the company to operate its line of railway.

The Board was informed that there was pending with the Interstate Commerce Commission an application to permit the removal of the tracks of the railway from Northport, Washington, to the international boundary, at which point it connects with the line herein involved.

A communication has been filed with the Board by the railway stating that the Department of Public Works at Washington has recommended to the Interstate Commerce Commission the granting of the application of the Great Northern Railway Company for authority to abandon the Columbia and Red Mountain line, that is, the portion south of the boundary; and there was filed therewith a copy of the recommendation, it being stated that the line was losing from $14,000 to $30,000 per year, with no prospect of ever being able to reimburse itself in the future.

The Board understands that while there was a hearing at Spokane on October 19, 1921, in this matter, said hearing, it is noted, being before a representative of the Department of Public Works of Washington, there is a further hearing being arranged for under the auspices of the Interstate Commerce Commission.

While, as I understand the Transportation Act, it is necessary to obtain the sanction of the Interstate Commerce Commission before a line engaged in interstate commerce can be abandoned, the situation, as pointed out, is entirely different under the Canadian legislation; and the Board is bound by the provisions of the law.

It has seemed proper to set the matter out at some length, as there have been evident misunderstandings of the limitations of the Board's powers. Very earnest pleas have been made. It is represented that the discontinuance of the service is a matter of very serious moment to Rossland. It is unfortunate that the business activities of Rossland are not so satisfactory as they once were, and there is no escaping the conclusion that the discontinuance of the railway service will exercise an adverse effect. At the same time, leaving aside any question as to whether if the Board had jurisdiction it would be justified on the merits in ordering the service to be continued, the plain fact is that the Board has no jurisdiction so to order.

At the hearing, there was developed the question of the traffic of the mining company, LeRoi No. 2, which uses the spur track operated by the Red Mountain Railway in connection with a transfer to the Canadian Pacific Railway tracks, to enable the traffic to be carried to Trail. This matter is still under negotiations.

APPLICATION OF CANADIAN PACIFIC RAILWAY COMPANY *re* SPUR EUGENE F. PHILLIPS ELECTRICAL WORKS, LIMITED, BROCKVILLE

Judgment of Chief Commissioner, February 2, 1922, concurred in by Assistant Chief Commissioner, Commissioners Rutherford and Lawrence.

The Eugene F. Phillips Electrical Works, Limited, have decided to erect a large industry in the city of Brockville, at a point mutually agreed upon, in consideration of which the city has agreed to give the industry access to both Canadian Pacific and Canadian National lines, the site chosen being along the line of the Canadian National Railway leading to Westport at the western portion

of the city. The Canadian National runs for some distance just south of Church street before reaching the lands of the Phillips Company, and the Canadian Pacific Railway have asked for permission to construct a line from their road just south of Pearl street closely paralleling the Canadian National and running for about 1,000 feet along Church street.

At the hearing, Mr. Crombie, representing the Canadian National Railways, suggested that the Canadian Pacific Railway use their right-of-way, in consideration of which the Canadian Pacific Railway was to give to the Canadian National Railway a right-of-way to the harbour front and also access to certain industries on the Canadian Pacific Railway tracks. Considerable correspondence followed by representatives of the different companies, and, as I view it, the only question which we have to decide is whether the application of the Canadian Pacific Railway to construct a new line through the City of Brockville should be granted or whether running rights should be ordered over the Canadian National.

It seems to me that section 193 of the Railway Act, especially with the new clauses 4 and 5 added thereto in 1919, was designed to meet just such a condition as now under discussion. Prior to the recent amendments, section 193 provided that a portion of one company's right-of-way, tracks, terminals, stations, or station grounds, etc., might be used by another company, subject always to the approval of the Board first being obtained. It then provided the necessary procedure for obtaining the right, subject, of course, to compensation to be fixed by the Board in case the parties failed to agree among themselves.

Subsections (4) and (5) of section 193, however, as added by Parliament in 1919, read as follows:—

> " (4) Where the proposed location of any new railway is close to or in the neighbourhood of an existing railway, and the Board is of opinion that it is undesirable in the public interest to have the two separate rights of way in such vicinity, the Board may, when it deems proper, upon the application of any company, municipality or person interested, or of its own motion, order that the company constructing such new railway shall take the proceedings provided for in subsection (1) of this section to such extent as the Board deems necessary in order to avoid having such separate rights-of-way.
>
> " (5) The Board, in any case where it deems it in the public interest to avoid the construction of one or more new railways close to or in the neighbourhood of an existing railway, or to avoid the construction of two or more new railways close to or in the neighbourhood of each other, may, on the application of any company, municipality or person interested, or of its own motion, make such order or direction for the joint or common use, or construction and use, by the companies owning, constructing or operating such railways, of one right-of-way, with such number of tracks, and such terminals, stations, and other facilities and such arrangements respecting them, as may be deemed necessary or desirable."

It is my opinion that Parliament has placed upon this Board some responsibility to see that new roads are not unnecessarily constructed. The Canadian National road in question is a branch line running to Westport, upon which the traffic is very, very slight, and there is no prospect of a great increase for many years to come. There is, therefore, ample physical accommodation for both roads, and, in my opinion, the Canadian Pacific Railway should be compelled to use the existing Canadian National line upon terms to be mutually agreed upon by the respective parties, in case they fail to agree, then to be settled by the Board.

It also developed at the hearing that the Canadian Pacific Railway Company was willing to exchange joint running rights between the Canadian National and themselves, they agreeing to give the Canadian National access over their belt or loop line from the point of connection with their line to the Grand Trunk station, a distance of about half a mile, in exchange for their being allowed to operate over the Canadian National line to the industry herein described. This proposal seems to have been lost in the discussion and has not again been referred to even in the correspondence, the whole question centering around the granting of running rights over the Canadian Pacific Railway to the waterfront and industries.

Therefore, the application as made should be dismissed, but an order should issue directing the Canadian Pacific Railway Company to use the line of the Canadian National from a point on the plan filed south of Pearl street, marked in red, to the Eugene Phillips property, and that the Canadian National Railways be directed to allow such user; if the parties fail to agree upon the terms within one month from date, then the same to be settled by the Board upon application by either party or by the city of Brockville, which is an interested party by reason of its contract with the Eugene Phillips Company and should at any time in the future the Canadian National require running rights over the Canadian Pacific Railway from the junction to the Grand Trunk Railway as above mentioned, they are to have the same under like conditions as herein provided for the user of the Canadian Northern Railway line by the Canadian Pacific Railway.

APPLICATION OF C.P.R. CO. *in re* COMPANY'S PROPOSED LINE LANGDON NORTH (ACME TO EMPRESS) BRANCH

Judgment of Chief Commissioner, February 2, 1922, concurred in by Commissioners Rutherford and Lawrence. Assented to by Assistant Chief Commissioner under separate Judgment February 6, 1922.

This application is one on behalf of the Canadian Pacific Railway Company asking for a connection with the Canadian National Railways tracks at Drumheller, in the province of Alberta. The application is resisted by the Canadian National Railways very strongly on the ground that the Drumheller coal fields are industries naturally belonging to that company, they having spent many millions of dollars to put themselves in a position to handle the business, and allege that they are able to give service to all points generally to which Drumheller coal is distributed.

The Canadian Pacific Railway Company rely upon precedents created by this Board in granting transfer facilities, such as the London Case, 6 C.R.C., 327; the Calgary Case, file No. 10921.95; and the Ottawa Case, all of which lay down very broad principles in granting these transfers, but I am more impressed by what has taken place publicly and by negotiation between the parties during the past three years than by the principles heretofore enunciated by the Board.

The question of an entrance into the Drumheller coal field by the Canadian Pacific Railway Company was settled by Parliament when a charter was granted giving them that right. An agreement was then made with the Canadian National Railways and this Board providing for the construction of a joint line of thirty miles in length east of Rosedale, and the Board, only a short time ago, approved the location asked for by the Canadian Pacific Railway on the north side of the Red Deer river. The Canadian Pacific Railway now claim that, temporarily, they wish to use a connection already in existence on the south side of the river by which they can carry on business for the present north and west, but not to the east, until the original scheme is carried into effect.

The principle which I think should settle the action of the Board in this matter would be what would the Board do should the Canadian Pacific Railway construct its line along the north bank of the Red Deer river and the joint section from Rosedale to Bull Pond and thence to its eastern connection? Would the Board grant transfer facilities or not under these conditions? I think it would—in fact, I fail to see how we could do otherwise, and, therefore, as the Canadian Pacific Railway Company is now into Drumheller, under these conditions, I fail to see how we could refuse to grant the physical connection, and, therefore, an Order should issue granting the application.

McLean, Assistant Chief Commissioner:

The reasons for judgment of the Chief Commissioner make the matter turn, in the main, on the intention of Parliament as evidenced in legislation. I approach the matter from a somewhat different standpoint. My opinion, in the past has been, as expressed in various cases, that the primary question is what, if any, additional necessary services will be afforded to the public by the granting of interchange facilities.

In the *London interchange Case, G.T.R. Co. vs. C.P.R. Co. and City of London, 6 Can. Ry. Cas., 327, at p. 331*, the late Chief Commissioner Killam said:—

> "The provisions of the Railway Act which require railway companies thus to interchange traffic to connecting points are introduced, not for the purpose of benefiting one railway company at the expense of another, but solely in the interest of the public."

It has seemed to me that where there is no real complaint of inadequacy of service by the railway already in place, or allegation that additional places would be served by means of an interchange track, the argument for installation of interchange facilities is a weak one. In the present instance, the evidence as adduced by the Canadian Pacific Railway Company at Calgary in support of the application was, if the matter is to be looked at from the standpoint of this particular evidence and independent of matters of general principle established in decisions of the Board, exceedingly weak and inconclusive.

Mr. Jesse Gouge, a coal operator in the Drumheller field, who appeared on behalf of the application and who was the main witness of the Canadian Pacific Railway, when questioned was unable to point to any unsatisfactory service in respect of forwarding movements by the Canadian National from Drumheller. On the contrary, he very frankly stated that a great improvement had taken place in that service and that it was quite satisfactory. Further, he was unable, when questioned, to refer to any additional areas which would be served by means of the interchange track and which were not at present served by the Canadian National.

In the hearing at Ottawa, evidence was adduced showing that there was some additional territory that would be served.

When the matter was spoken to at Winnipeg, details were put in by various parties regarding delays in transit over the Canadian National lines, and similar information had already been put in at Regina. The essence of this complaint was that there were delays in transit and that these would be lessened, if not obviated, if additional means of carriage were available.

I am not satisfied that an analysis of the data submitted in respect of the Canadian National movements shows, all things being considered, that there was unreasonable delay in transit.

I might, if it were worth while, analyse in detail statements made in telegrams filed with the Board on behalf of the respective contentions of the Canadian Pacific Railway Company and of the Canadian National, and thereby

draw the attention of the railways to the worthlessness of such material by way of evidence and statements in rebuttal. Telegrams are as easy to obtain as signatures to petitions. A marked degree of broadmindedness was shown by some of those telegraphing, as telegrams were received from them in the first instance supporting the Canadian Pacific position, and subsequently telegrams were received from them supporting the Canadian National position.

So far as the evidence was submitted, there was nothing, to my mind, to show that the Canadian National was not adequately handling the situation at present.

In connection with a number of interchange cases in which I have participated, I have expressed the opinion that the company upon whose line, including private sidings tributary thereto, traffic is loaded, should be entitled to the line haul and to the privilege of effecting the required delivery on the line of the other company by means of interswitching at destination. See my dissenting opinion in the *Ottawa Case, File 18023.*

In the *Brantford Case*—interchange connection tracks between the Lake Erie and Northern and T.H. and B, and the Lake Erie and Northern and Grand Trunk Railway, *File 6713.120*, a similar recommendation was adopted by the Board. A similar provision was also put in the *Belleville-Interchange Order.* When the Interswitching order was later revised, the practice of placing such limitation in the order was given up.

I refer to this simply as bearing on the position which would seem to me to be proper, viz., that the important criterion in connection with determining whether interchange facilities should or should not be granted was whether the existing railway was unable to grant adequate facilities.

As pointed out in the majority decision in the *Ottawa Case:*—

> "Perhaps it should be stated that transfer tracks are not ordered merely because some railway asks for them. Neither railway is entitled to them as a right in itself. The property and advantages of one railway should not be interfered with for the mere benefit of another. Public interest, economy of movement to the shipper and convenience must be established."

I am compelled, however, to say that the trend of the judgments in regard to interchange facilities has been steadily away from the factor which I have considered as the main criterion, and whatever my personal view may be, I am, of necessity, bound by the decisions of the Board.

There have been a considerable number of cases in regard to interchange facilities; and it seems to me that the principle which has gradually become more manifest in connection with such applications is that where there are such physical conditions as lend themselves to interchange and there is at the same time a reasonable amount of traffic concerned, the order should be allowed.

In the application of the Western Terminal Elevator Company, Limited, *File 22317.16*, in which judgment was rendered on June 7, 1921, the Chief Commissioner in his judgment referred to the question as to whether or not an industry which is well served by one railway should be allowed the same privilege from another and competing railway; and continued, that without laying down any principle to be followed in all cases, he was of opinion that the Board would not be justified in the present instance in refusing any elevator at the head of the lakes a right to connect, at its own expense, with any railway entering that territory.

If this judgment were taken by itself, it might be argued that the peculiar facts of the traffic in grain at the head of the lakes, as referred to in the judgment, does create a condition differentiating it from conditions arising where the facts were dissimilar.

In the application of the Municipal Council of the town of St. Jérome, Quebec, for an order directing the establishment of an interchange track between the Canadian Pacific Railway and the Canadian National Railways, within or near the limits of the town—*File 6713.180*, in which judgment was rendered on October 12, 1921, the Chief Commissioner, in giving decision that the order should be granted, expressed the opinion that while there was not the same demand from the public standpoint in the present case as in the Western Terminal Elevator Company's case, there was little difference of principle, and that the public should have some rights in deciding how its traffic should be routed.

Exactly the same principle was involved, in a smaller way so far as the Canadian National is concerned, as in the Drumheller case. The Canadian National opposed the application for the establishment of an interchange track on the ground that so long as it was able to deliver goods originating on its lines there was no justification for providing facilities to have them diverted. The Canadian Pacific Railway Company opposed the application on the ground of expense. The applicant urged that the facility was in the public interest, claiming that when coal arrived by the Canadian Pacific Railway it had to be carted one-half mile or more to the industries. It also contended that large quantities of hay and farm produce for the north country had to be carted from car to car at St. Jérome.

The decision in the *St. Jérome Case* goes very far. As the latest in a line of greatly broadening attitude in respect of the grounds on which interchange tracks should be granted, it is especially significant.

Constrained by the positions which have been developed under the judgments, I assent in the present case.

APPLICATIONS OF DEPARTMENT OF LANDS, FORESTS AND MINES, NORTHERN DEVELOPMENT BRANCH, ONTARIO, IN *re* CROSSINGS, DISTRICT OF KENORA, CANADIAN PACIFIC RAILWAY

Judgment of Assistant Chief Commissioner, February 6, 1922, concurred in by Commissioner Rutherford.

The crossings concerned are approximately 218 and 220 miles respectively west of Fort William; one being located in the township of Eton, and the other in the township of Aubrey.

The survey of the township of Eton was made in the year 1896, instructions for the survey having been issued on June 18, 1896. The survey was completed in September, 1896. The survey of the township of Aubrey was made in the year 1897, under instructions dated July 8, 1897.

The applications while concerned with particular instances turn upon a question of general principle. The matter involved is whether the applicant has such legal rights as to establish its seniority.

In *Ontario Department of Public Works vs. Canadian Pacific Ry. Co., 24 Can. Ry. Cas., 231* (the township of Kirkpatrick Case), there was before the Board an application directing that a highway crossing over the Canadian Pacific Railway Company be ordered, at the expense as to construction and maintenance of the railway.

As indicated, in the judgment in question, there was before the Board the question of the proper construction of section 2 of the Provincial Act 59 Victoria, chapter 11, in relation to the Order in Council of August 6, 1866, the material

portion of which is set out in the reasons for judgment of the Chief Commissioner in the case above referred to. The section in question provided that:—

> "2. Such transfer shall be deemed to be subject to any agreement, lease or conveyance affecting the same made by the Government of Ontario before the passing of this Act, as well as to the limitations and conditions, if any, in the Order in Council making the transfer, and the Order in Council shall not be deemed to have conveyed or to convey the gold or silver mines in the lands transferred, or to affect or prejudice the rights of the public with respect to common and public highways existing at the date thereof, within the limits of the lands hereby intended to be conveyed."

In this case, the railway contended that the right-of-way was the absolute property of the company. The province of Ontario, through its Department of Public Works, claimed that the company's title was subject to highway reservations as yet unexhausted. The judgment of the Chief Commissioner read the section of the Provincial Act, already referred to, as referring to the rights the public possessed under any declaration or Order in Council made by an authority competent to create or reserve them, and which continued to exist at the time the Act was passed.

The decision in question was appealed to the Supreme Court. The railway contends, in effect, as is later pointed out, that on a proper construction the judgment of the Supreme Court will uphold the contention of the railway. As to the facts involved, reference may be made to the decision of the Chief Commissioner and of the Assistant Chief Commissioner at pp. 231, 235, and pp. 235-238 respectively.

The argument of counsel for the railway sets out that in the case stated to the Supreme Court there was the following finding:—

> "Upon its appearing that no highway was laid out across the said railway before the title to its right-of-way was acquired under the said Order in Council, and upon its appearing that the company's title was under the terms of the said Order in Council dated October 31, 1901, made expressly subject to the conditions and limitations contained in section 2 of the said Provincial Act."

Counsel sets out that this is nothing more than a finding, and refers to the statement of counsel for the Department of Lands and Forests that there was no evidence offered to prove that there were no highways between Sudbury and Sault Ste. Marie. The statement of counsel for the Department of Lands and Forests is set out later.

Counsel for the railway said "Our contention is that the Supreme Court misinterpreted the finding of facts of the Board."

Counsel in paraphrasing the language of the Chief Justice says:—

> "He says that if the language of the Statute had been slightly transposed: he has in view his finding that there were no highways from Callander to the boundary, and then he says that to give it any meaning at all he has to transpose it and it would read: Shall not be deemed to effect or prejudice the rights of the public existing at the date thereof with respect to common or public highways."

The argument of counsel is, in effect, that if the Chief Justice had not been constrained by the language of the finding of the Board the majority decision of the court would have been in support of the construction the railway argued for; and it is, therefore, argued that the Board is free to act untrammelled by

the judgment of the Supreme Court. It would follow, then, that if the judgment in question may be treated as non-existent that the board is in a position to deal with the matter *de novo*. Counsel's language in this connection puts the matter in a summary way:—

> ". . . . . if I assume that the Board in dealing with this question now does not go back to its former judgment, but it goes back to the interpretation of this clause of the Supreme Court, I would urge this that if I can show that the Supreme Court was misled or misinterpreted the facts upon which their finding was made that then we are entitled to ask and the Board is free to act untrammelled by that judgment at all."

The submission of counsel for the department is:—

> "The real question at issue is the matter of who should bear the expense, and that is determined by seniority. I understand the rule of the Board is that the expense shall be borne by the party junior in right. In this case, the question would be, Has the province the seniority of right of the crossing for highway purposes? And if it should be determined by your Board that they have such a seniority of right, that then the expenditure should be borne by the railway. That I understand is the question.
>
> "Now, as to that we have the decision of this Board in the Kirkpatrick case. The Assistant Chief Commissioner will be quite familiar with the evidence and the facts that were before the Board in that case. The judgment is the judgment of the three Commissioners, and the findings of the Chief Commissioner and the Assistant Chief Commissioner at that time are based upon the right of the province and not upon any question whatever as to whether there had been any crossings between, say, Sudbury and the Soo at that time. It is purely a question as to whether the Order in Council by its terms and the proper application of it gave a priority of right to the province for a crossing, and the five per cent reservation applied for that purpose.
>
> "Neither in the report of the findings and decisions of either of those two Commissioners was there any suggestion that there had been no crossings upon that railway between Sudbury and the Soo, and I take it that there was no evidence adduced in connection with that at all. I am informed that the province put in no evidence in regard to that. That being so, we have the expressions of opinion of the Commissioners, and I refer particularly to the Judgment of the Assistant Chief Commissioner in Volume 7 of your own Judgments, at page 206. And, also, at page 211, the Judgment of the Chief Commissioner. I submit that the finding and opinion of the two Commissioners was good law."

If the argument that the Board is "free to act untrammelled" by the judgment of the Supreme Court is acceded to, then it appears to me that the question arises, what was covered by the Board's own decision?

The fact may be noted that the dissenting opinion, written by me, turned entirely on a question of construction, and was in no way dependent on a particular state of facts. Textual analysis of the judgment will substantiate this. I approach, with some hesitancy—because I differed—the consideration of what is set out in the majority decision. A textual analysis of the decision of the Chief Commissioner which, under the Railway Act, section 12, subsection 2, is conclusive on a point of law, shows, in my opinion, that the legal positions therein set out and accepted as the majority decision are, as the matter appeals to me, expressed without any qualification based on particular facts.

The Chief Commissioner held that the Order in Council still stood. In dealing with the question of the highway rights involved, the following language was used:—

> "Apart, however, from the matter of considerations, the Order in Council of 1866 still stood. It was unrepealed. The grounds on which that Order was passed still largely obtained. The country was still sparsely settled; and, to the extent at least that Crown lands in the district covered by the order were generally patented, the 5 per cent reservation would doubtless have been made.
>
> "The Order in Council of 1901 does not deal with that of 1866 one way or the other, but a direct limitation of the company's title is made by section 2 of the Act already set out.
>
> "It is urged on the one hand that the limitation there made refers only to existing highways. If this reading of the Act be right, the highway in question being new, the municipality must pay the cost of the crossing construction.
>
> "The contention of the province is that the Act should be read as protecting and continuing the existing rights of the public with respect to common and public highways.
>
> "In this connection, the use of the words 'the public' is not happy. It would undoubtedly have been better if the rights were defined as those of the Government or of the municipality, as doubtless roads are laid out and otherwise dealt with through these agencies. The use of the words 'the public' supports the contention that the right of reservation was the right of the public to use existing highways.
>
> "Recognizing, however, these difficulties, I am, nevertheless, of the opinion that the company's title ought to be construed as subject to a reservation of existing rights.
>
> "I am of the opinion that the Act and Orders in Council should be construed as reserving the public right of highways, but conveying an absolute title in all respects.
>
> "Highways may exist in law that have never been laid out or in any way improved. The right of the public to use the highway, that is, to travel on it, and the highway itself, may be non-existent, except in the case of the highway on paper, although a highway as a matter of law exists.
>
> "I would, therefore, read the section as referring to the rights the public possessed under any declaration or Order in Council made by an authority competent to create or reserve them and which continued to exist at the time the Act was passed.
>
> "The Order in Council of 1866 was passed by a competent authority and was unrepealed in 1901."

C.P.R. Co. v. Ontario Dept. of Public Works, 24 Can. Ry. Cas., pp. 234, 235

As I have said, I approach the analysis of the majority judgment with some hesitancy. I dissented therefrom. My colleagues who wrote the decisions from which I dissented are no longer members of the Board. It is not for me to endeavour to look into their minds at the time their judgments were prepared other than is indicated in the words of their judgments; and I am not in a position to say that if the matter were being gone into anew they would now accept the construction of the law which is set out in the dissenting opinion.

Under these circumstances, in so far as the facts involved in the present application are on all fours, I am of opinion that the decision of the Board in the *Township of Kirkpatrick Case applies.*

It is contended by counsel for the railway that even if the decision in the *Township of Kirkpatrick Case* stands, the Order in Council of 1866 is not applicable to the territory involved in the present application.

Reference has already been made to section 2 of the Provincial Act, 59 Victoria, chapter 11. There is on the files of the Board, submitted in connection with the present case, a certified copy of a letter dated May 31, 1897, and written by Messrs. Scott and Scott, the solicitors, at Ottawa, of the Canadian Pacific Railway Company, to Aubrey White, Esq., Assistant Commissioner of Crown Lands, Toronto. The letter reads as follows:—

> "Pursuant to chapter 11, 59 Victoria, we beg to apply on behalf of the Canadian Pacific Railway for patents for the land at present occupied by the railway from Fort William to the western boundary as appears upon plans of the completed railway filed in your department bearing the certificate of the Deputy Minister of Railways. As the Act requires application to be made to the Dominion Government, the Deputy Minister of Railways has promised us to write to you making the necessary application that patents for the land in question be granted to the railway company. We would be much obliged if you would give this matter your prompt attention and let us know if anything further is required in order that patents may issue to the company."

As indicated, the points concerned are located west of Fort William. These points are located within the boundaries of the province of Ontario as dealt with in the Imperial Statute of 1889, 52-53 Victoria, chapter 28. The boundaries so established relate back to the conditions as they were not only at the date of Confederation but also to what they are at the date of the Order in Council.

As is set out in the decision in the *Township of Kirkpatrick Case*, the Order in Council of August 6, 1866, deals with the surveying of the lands on the "northerly shore of lakes Huron and Superior," the 5 per cent reservation being related thereto.

C.P.R. vs. Ont. Dept. of Public Works, 24 Can. Ry. Cas., 231, at p. 232.

The word "northerly" is admittedly a word of somewhat inexact meaning. Counsel for the railway says:—

> "Now the two crossings in question are probably about 200 miles west of Fort William. They cannot by any stretch of the imagination be considered as on the northerly shores of lakes Huron and Superior, and I would contend that the Order in Council of 1866 cannot in any event apply to them."

In another connection, counsel says:

> ".....my second contention was.....that in any event the Order in Council was limited by its terms to the lands north of lake Huron and lake Superior."

Referring to the second extract, the word "north" is, I take it, used advisedly, and if the Order in Council so read the definition would be much more exact.

In the proceedings in connection with the determination of the Ontario boundary, much turned upon the definition of the word "northward." In the course of the argument before the Privy Council, Christopher Robinson, Q.C., counsel for the Dominion of Canada, cited authority bearing on the proposition that the word "northward" taken by itself means the north, if there is nothing to alter or change that direction. He also cited authority bearing on the use,

in a particular case, of "northerly" as meaning due north (see the argument before the Privy Council "In the matter of the boundary between the provinces of Ontario and Manitoba in the Dominion of Canada; between the province of Ontario, of the one part, and the province of Manitoba, of the other part," at p. 345). In the argument of Hon. Oliver Mowat, before the arbitrators who reported in 1878, the contention, as bearing on the western boundary of Upper Canada, was advanced that "northward" does not mean due north, and that "northward" may mean any northerly direction; either due north or towards the northwest or northeast. The argument is contained in the documents contained in the reference to the Privy Council, 1883.

The finding of the arbitrators in 1878 upheld generally the construction urged by the province of Ontario, through its counsel, including as a necessary consequence the construction placed upon the word "northward."

The Imperial Order in Council of August 11, 1884, in referring to the award of the arbitrators, found "so much of the boundary lines laid down by that award as relate to the territory now in dispute between the province of Ontario and the province of Manitoba to be substantially correct and in accordance with the conclusions which their Lordships have drawn from the evidence laid before them."

Inferentially, the construction placed upon the word "northward" by the province of Ontario is approved. Without being too rigid in expression, it would appear that the definition so accepted is of some use in endeavouring to ascertain the meaning of a somewhat similar word, which is admittedly somewhat ill-defined in scope.

The Century Dictionary and Cyclopedia defines "northerly" as pertaining to or being in or toward the north; northern. Murray's Oxford Dictionary defines "northerly," to the northward; towards the north or the north side. Anderson's Dictionary of Law states that north is not synonymous with northerly or northwardly.

"Northerly" as used in the Order in Council of 1866, in my opinion, does not mean simply the "north" shore. The word "northerly," which is admittedly of wide scope, covers northwest as well; that is, if there is the attribute, so to speak, of "northness" to the direction, it may be bound up with other points of the compass as to direction. It, therefore, seems to me that "northerly shore of lake Superior" carries with it the applicability of the Order in Council in a north-westerly direction, and that it is applicable to the territory herein involved.

At the hearing, there was set out the practice which had been followed in respect of the 5 per cent reservation; and a considered statement was made as to the practice applying in the territory herein involved.

The considered position as to the practice is set out in the presentation by Counsel for the Department of Lands and Forests. The citations are from volume 363 of the evidence:—

> "Mr. TITUS: However, in the surveys in the northern part of the province, it was simply laid out in townships.
>
> "Mr. FLINTOFT: Were the lots 210 or 200 acres?
>
> "Mr. TITUS: They were 320 acres.
>
> * * * * * *
>
> "Mr. FLINTOFT: In granting a patent of these 320-acre lots, did the patent in fact cover 320 acres or 352 acres?
>
> "Mr. TITUS: The patent is for the full size of the lot, reserving five per cent for road purposes." (p. 8248)
>
> * * * * * *

"Mr. TITUS: The fact I am anxious to show that the township of Eton has been surveyed without the laying out of roads, and with a reservation of five per cent for road purposes.

"Mr. FLINTOFT: I do not know anything about that at all. I know how the plan is.

"Mr. TITUS: The plan shows that.

"Mr. FLINTOFT: It shows it is laid out at 320-acre lots.

"Mr. TITUS: And without any roads laid out.

"Mr. FLINTOFT: Without any roads certainly, but I don't know whether it was contemplated that there would be a five per cent reservation when they would be patented or not.

"Mr. TITUS: I thought that was a necessary inference; if you lay it without any roads, and there is an Order in Council providing that there shall be a five per cent reservation, that it necessarily follows.

"Mr. FLINTOFT: It depends on whether the Order in Council applies.

* * * * * *

"Mr. TITUS: That is all I need say with reference to that; that is, that the survey shows that there has been no laying out of roads.

"Mr. FLINTOFT: Yes, I can agree with that. This is the Government plan of the township of Eton." (pp. 8249-8250)

Again, in referring to the instructions issued to the Ontario land surveyors in connection with the survey of the township of Eton, Mr. Titus said, at pp. 8251-2:—

> "....Then we have the report showing how it was laid out according to that plan; that is, without any road allowances being surveyed...."

It is contended, however, by counsel for the railway, that the fact that the railway holds the land herein involved under a patent of March 29, 1904, has significance. In the case of the township of Kirkpatrick, the patent was of different date. It is contended that the title west of Fort William does not depend on the Ontario Act of 1896. The line from Fort William west to the Manitoba boundary was built by the Dominion Government under the legislation of 1874. The Public Works Act of 1867 and the amending Acts thereof are referred to as being the authority under which the Government was acting for the expropriation of the lands. The patent of March 29, 1904, conveyed to the Canadian Pacific Railway Company the railway between "the town plot of Fort William and the province of Manitoba and certain parcels of land set out and described in the patent". It is set out:—

> "Our contention, then, is shortly on this point that the Dominion Government appropriated this land under its powers for the purpose of this public work. They agreed to convey that land to the Canadian Pacific Railway Company. They have done so by this patent. Legally, we are not required to know anything about what they did to get that land....we say we are in possession under the proceedings indicated and that having that in view we do not depend for our title to this portion of the right of way or the Act of the Legislature at all, although in terms, I admit, that the Act of the Legislature provided for the vesting in the Dominion of the lands required for the right of way of the Canadian Pacific from Callandar west to the Manitoba boundary." (Evid., Vol. 363, pp. 8268-8270).

The railway referred to the negotiations which had taken place between the Dominion and the province as to the lands involved. The railway submitted

a plan referred to as being signed by a Mr. Peterson on the 12th February, 1897, and filed in the Department of Railway and Canals on March 5, 1897. This map was referred to as having been prepared by the Departmental officers of the province of Ontario, and the indication, as shown thereon, of crossings at various points is referred to by counsel as the measure of what the Act of 1896 called for, viz., the reservation of common and public highways, existing at that time.

It does not appear to me that the plan has the conclusive effect which is attributed to it.

Having in mind the situation that led up to the settlement of the boundary disputes and the title of the province to the lands in the area involved, it seems to me that notwithstanding the argument of counsel the transfer of the lands to the Dominion was under the Provincial Act 59, Victoria, chapter 11, and that the Canadian Pacific took from the Dominion with the existing obligations attaching thereto.

Under the legislation of 1896, the lands transferable to the Dominion, in order to enable it to fulfil its obligations to the Canadian Pacific in respect of roadbed, station, station grounds and other purposes of the said railway, included an extent from "Calander Station" to "the western boundary of the province of Ontario near Rat Portage."

The land transferred from Fort William west, which is herein involved, is, in my opinion, subject to the provisions of section 2 of the legislation of 1896 as to "the rights of the public with respect to common and public highways existing at the date hereof, within the limits of the lands hereby intended to be conveyed;" and the provisions of the Order in Council of 1866 I, also, hold are applicable. For the reasons already stated, it appears that under the decision in *The township of Kirkpatrick Case* the reservation under the Act of 1896 refers "to the rights of the public possessed under any declaration or Order in Council made by an authority competent to create or reserve them and which continued to exist at the time the Act was passed."

The specific applications have stood pending decision as to the matter of rights in respect of seniority. The application on *file 30870* was objected to by the railway in the following terms, as set out in the communication on file:—

> "It appears that the location of the crossing asked for is 8 feet deep on a 2° 30″ curve. Trains in either direction could not be seen until those in the highway would be almost on the track. There is a private crossing a few hundred feet west of the point at which the proposed crossing is sought, and while the visibility is better than at the proposed crossing, even there it is by no means satisfactory. If a road diversion were made to reach this private crossing it would have to be made over privately owned property.
>
> "Our officials are of the opinion that the application should not be granted."

The Board's Division Engineer who made an inspection of the matter before the hearing advised as follows:—

> "On going into the question of the proposed crossing on the line of the road allowance, or concession line, I find at the point of crossing that the cutting is not more than between 5 and 6 feet.
>
> "Teams approaching from the north on the roadway can see the tops of approaching trains, in both directions, for a distance of at least eight or nine pole lengths. Teams approaching from the south can see trains approaching from the west for a long distance, but the view of

approaching trains from the east is not quite so good, but trains can be readily seen from this direction at a distance from the track of about 75 feet.

"On going into the question of a diversion for the road crossing near this point, I find that the diversion would have to be made a long distance off the Concession line, and the view of approaching trains would not be much improved. The crossing referred to right at mile 73 is a private crossing and is being used at present. The view of approaching trains coming from the west is not good at that crossing, but, of course, trains can be seen for a long distance approaching from the east.

"On going into the matter carefully, I am of the opinion that the application of the Department of Lands and Forests for the proposed crossing should be granted. I would, however, recommend that a few scattered trees be cut down on the southeast side of the approach to the crossing."

This report was concurred in by the Board's Chief Engineer.

I am of opinion that order should go in terms of this recommendation.

The application which is on file 28140 is for an overhead crossing. This matter was brought up in the first instance in 1917 on the application of Sam Stephenson, of Oxdrift, Ont., the application being for a public crossing.

The Canadian Pacific Railway Company in its answer stated that at the point in question the company's tracks pass through a cutting 8 feet deep, and that the view approaching this crossing will not be good. It is stated, further, that the company's local officials suggest, if a crossing is to be put in, it should be put in at a point 200 yards west where the view in either direction will be good.

An inspection was made by the Board's Assistant Engineer and his report was sent to the Minister of Public Works of Ontario under date of December 18, 1917, the Government being the body with authority to make the application. Copy was also sent to the railway.

The recommendation of the Board's Assistant Engineer, as contained in his report of December 11, 1917, is as follows:—

"On taking up the question of putting in a crossing across the main line tracks of the Canadian Pacific Railway on the concession line between lots 6 and 7, I am not in favour of it, as the crossing comes through the centre of about a 9-foot cut, which would be a very dangerous crossing on account of the view being shut off from trains approaching from a westerly direction on the north or eastbound track. I might here say that a crossing anywhere in this vicinity is a dangerous proposition on account of the almost incessant traffic that takes place in the fall and part of the winter every year; there being a train in one direction or the other at this time less than every twenty minutes. Therefore, it is necessary to locate the proposed crossing in the best possible place, in order that passing teams may get a good view to approaching trains.

"The railway company's suggestion is to divert the proposed crossing to the west for a distance of six or seven hundred feet, where there is no doubt a plain view could be got of passing trains, but this is not desirable as it increases the length of the road fourteen or fifteen hundred feet that teams would have to travel; it would also necessitate passing over a very bad muskeg, which would be an expensive proposition to build a road and keep it up.

"An overhead bridge was thought of, but this is out of the question on acount of cost; the supporting ground not being nearly high enough and not sufficient traffic to warrant the cost of the erection of an overhead bridge.

"On going into the question carefully and having in mind the danger to passing teams, of putting in a crossing in this vicinity, I would recommend the following: The crossing to be installed fifty feet to the east of the centre line of the concession line. This will bring the crossing just to the east of the cut, or at the mouth of the cut. By installing the crossing at this point, trains coming from the east can be easily seen on both sides of the crossing for a distance of nine pole lengths. A team approaching the crossing on the road from the south can get a good view of trains approaching from the west on the north track; the great danger being for teams approaching the crossing from the north getting a view of train approaching from the west on the north or eastbound track."

On consideration of the Assistant Engineer's report by the railway, exception was taken by it. The Deputy Minister of Public Works of Ontario, under date of April 3, 1918, stated that, on consideration, it appeared that there was no great demand for a crossing at the point in question; and that, further, from the report of the Assistant Engineer it appeared that there would be considerable expense involved in making the crossing a fairly safe one; and the opinion was expressed that the conditions did not warrant such expenditure at the present time either by the railway company, the Ontario Government, or the local parties.

The application as launched in 1921 applies for an overhead crossing.

At the hearing in Toronto, counsel for the Department of Public Works stated (Vol. 363, p. 8254) that his clients were now prepared to accept the recommendation as made in the Assistant Engineer's report of 1917. He said that if the place had been much travelled it might have been contended there should be an overhead crossing. He admitted, however, that it was not much travelled, and that a level crossing, under the conditions as recommended by the Assistant Engineer of the Board, would be a reasonable proposition. Order may go accordingly.

APPLICATION OF BELL TELEPHONE COMPANY OF CANADA FOR INCREASE IN TELEPHONE TOLLS.

Judgment of Commissioner Boyce, February 7, 1922, concurred in by Deputy Chief Commissioner and Commissioner Lawrence. Dissenting Judgments of Chief Commissioner and Asst. Chief Commissioner, February 9, 1922.

The application of the company is in the following form:—

"On July 23, 1921, the Bell Telephone Company of Canada applied to the Board of Railway Commissioners, for an order, under Section 375 of the Railway Act 1919, 9-10 George V, chapter 68, authorizing the undermentioned increases in telephone tolls which is presently authorized to charge, which application is summarized as follows:—

"1st. That the rates authorized do not produce sufficient revenue to meet its dividend requirements and therefore do not carry out the intent of the judgment and Order rendered by the Board in April last.

"2nd. That it has found it impossible to obtain the new money required to enable it to extend its facilities, owing to inadequate earnings.

"3rd. That it has approximately 16,000 applications for service which it cannot supply owing to general shortage of equipment. And

"4th. That unless large capital outlays are immediately arranged for, the shortage of equipment will become so serious and so prolonged that the public will be seriously handicapped through inability to obtain telephone service."

There is then submitted, for the approval of tl is Board, a general tariff of rates for exchange service involving substantial increases in telephone tolls extending over the whole of the exchange area. The increases vary from 2 per cent to 95 per cent, and would, on the whole average, perhaps, 20 per cent. The percentage increase resulting from tl e proposed tariff is not the immediate and important factor in deciding as to whether it is such a just and reasonable tariff as, under the Railway Act, should be approved by this Board, having regard to the conditions *and service* to which it is proposed to apply it.

No changes are proposed to be made for rural service, long distance service, service connection charge, or any other charges, for which the tariffs are on file with this Board, other than those mentioned in the application.

The reasons submitted tl roughout the hearing, in support of the application for the approval of the tariff are, generally, those appearing in the application itself.

The onus of establishing the fairness, justice, and reasonableness of such a tariff, as is offered for approval of the Board, must rest upon the company proposing it. Beyond the fact that it is stated, on behalf of the company, that by means of the proposed new tariff, which the Board is asked to sanction, the company will be able to derive sufficient additional money from subscribers to meet an alleged deficit in operation, I am unable to find in the evidence, any specific or cogent reasons for the particular tariff changes proposed.

Before dealing further with the proposed tariffs it may be useful to consider this proposal in relation to the history of previous applications for increases in rates made to the Board by the company in recent years.

The first general application, by this company, for increased tolls, came before the Board in 1918, and after a lengthy hearing resulted in a judgment of the Board, dated April 24, 1919, providing for a 10 per cent increase in exchange rates, a revised increase in long distance service, service connection charges, removals, etc., as set forth in the Board's Order of May 13, 1919. That application was based entirely upon emergency conditions resulting from the war, and in consequence of the sharp advances in operating costs. The Board authorized the percentage increase in exchange business as a temporary and emergency measure, retained control of the case with the expressed understanding that revision of the emergency tolls, so authorized, should take place when the emergency conditions justifying them had ceased to exist.

By a subsequent application, made in 1920, the telephone company represented to the Board that the cost of labour and materials, incident to the operation of its business, had continued to advance rapidly since the issuance of Order No. 264, and it was stated that as a result the increased rates allowed upon the previous application had proved insufficient to provide for the applicants' requirements. The company, in that application, proposed some changes in the tariff, but notably a substantial change as affecting five of the largest cities within the telephone area, by the introduction of the measured rate system. That application, like the former one, was treated as one of emergency, and after a careful and exhaustive hearing by the Board it was decided, by its judgment, dated April 1, 1921, that temporary relief as against this emergency should be granted in the form of an increase of 10 per cent in the then existing exchange rates. The application of the company, as to tl e measured service, was disallowed, it being found that there was no evidence to support it. The tariff involving increases for long distance and service connection charges was approved, and an increase of 10 per cent in the tariff of rates for exchange service and charges for miscellaneous equipment and service was allowed. The company stated early in the hearing of that case that it had fallen short of earning dividend since May 1920 by $2,788,000. Tl is statement is confirmed by Mr. Sise in his evidence (volume 378, p. 15624), but, in arriving at the amount of the

deficit to be dealt with by the judgment, the Board found that the amount of same was in round figures $1,000,000, or, to be exact, $949,867. The accounts taken were upon actual and projected revenues, from May 1920 to May 1921.

In disposing of the application and in delivering the judgment of the Board, the Assistant Chief Commissioner said (section XV):—

> "On the whole, after consideration of the different factors, I am of the opinion that the matter must be treated as one of emergency, and therefore, for *temporary relief* only."

Before order was made upon the judgment above mentioned, further representations being made by the telephone company, representing an improper basis of computation in reaching the necessary amount required by the company to meet the emergency condition complained of, the amount of the temporary emergency increase of ten per cent was increased to 12 per cent, and General Order No. 338, dated April 13, 1921, was issued, authorizing the above mentioned increase, and declaring that the increases thereby allowed should "*be regarded as a temporary measure, to meet an existing emergency situation;*" the applicant company being thereby required to file monthly reports, with such further special reports, if any, as may, from time to time, be called for by the Board.

The city of Toronto appealed, under the appropriate clauses of the Railway Act, to the Governor in Council against the above judgment, upon specific grounds, alleging error by the Board in dealing with the depreciation reserve fund of the telephone company. This appeal was argued, on the 14th day of June, 1921, and judgment was reserved, and, while the said appeal was under consideration by the Privy Council of Canada, the present application was launched.

The appeal to the Privy Council was not disposed of, but was referred to this Board for disposition along with the present application.

The letter, dated July 23, 1921, which is referred to in, and is the basis of this application, alleges that the judgment of the Board of April has not been productive of sufficient revenue to enable the company to provide for its operating requirements, and that letter based upon a consideration of earnings for May and June, which the company represented had resulted in a large deficit, asked that the order granting the 12 per cent increase be so amended that rates will be authorized which would produce a revenue resulting in net earnings of 10 per cent on the company's issued capital. It is stated in that letter, by the company, that the company's estimate as to the increase required in exchange revenue, in order to place the company in the position of obtaining sufficient additional capital to maintain additional service, and provide for plant additions, should be increased by $1,357,500. In, and by this informal application, of July 23, the Board was asked to permit a further percentage increase in order to provide the amount required. This, the Board declined to do, upon the representations then before it, and the formal application now before the Board to approve a new tariff of exchange rates—not a percentage increase of those then and now in force—resulted in and is, the application now to be dealt with and disposed of upon the evidence before us.

The company proceeded, immediately after the last judgment—that of April 12, 1921—to enter the market for additional money by increasing its capital stock by $5,725,000, and offering this in April and May (the first circular filed is dated in April, 1921) at par. Indifferent success was met with—probably due to unfavourable market conditions at the time of offering.

The letter of July 23, quotes a statement from a financial firm with whom negotiations had been opened as regards this stock, as follows:—

> "The undersigned syndicate feel that owing to the condition of your company's earnings and the unsatisfactory attitude of the Board of Railway Commissioners, that a satisfactory sale of your common stock could not be accomplished, unless your Directors can assure us that such operating economies can be effected or increased revenues obtained so that the present 8 per cent dividend on your stock can be maintained."

It is a subject of passing comment, perhaps, that this letter was not quoted originally, in its entirety. It was partially quoted originally to support the view that the Board's judgment of April 1 was so unsatisfactory that it had prevented the company from financing its requirements thereupon. The concluding paragraphs, however, obtained upon cross-examination of Mr. Sise, read as follows:—

> "Q. Why did you not read the rest of the letters?
> "A. What is that?
> "Q. The letter continues: However, if your company wishes to continue its construction programme this syndicate would favourably consider the purchase of an issue of seven per cent bonds maturing April 1, 1925, 25 per cent payable as to principal and interest".....
> "A. I only read an extract.
> "Q. The last paragraph of the letter reads: As pointed out to you by Sir Charles Gordon yesterday, this syndicate would like to be of every service to your company and glad to consider any plan your executive committee might suggest."

This offer was never followed up by the company. The efforts of the company to finance did not impress me as having been very insistent and thorough. The balance of the issue not subscribed by its shareholders was not offered to the public. A prominent financial broker gave evidence at a previous hearing that the common stock of the company was a good investment—but though the company was aware of this statement, by a responsible man, that firm, at least, was never approached on the subject of underwriting. The impression on my mind, from the evidence, as to these alleged disappointments in financing was that as disappointment might possibly justify an immediate return to the Board, for a further increase in rates, it could be borne with serenity as being notwithout its compensations.

The suggestions in the broker's letter, above quoted, as to operating economies by the company increasing the prospects of financing, seem to have been acted upon tardily, and after this application was launched, Mr. Sise referring to this subject (Vol. 378 p.p. 508 *et seq*) says—that instructions as to operating economies, given in July became effective only in October and November. Mr. Scott, general superintendent of traffic of the company, in his evidence refers to the economies in number of employees, as follows:—

> "I reduced my staff in August by about 100 employees.
> "Mr. OSLER: In August?—A. Yes, I reduced my staff in August by about 100 employees. I reduced the staff in September by a further 200 and in October by a still further 200, roughly, 500 employees, the reduction being obtained at the expense of loading our remaining employees of the company. That reflects in the costs of September and October.
> "Commissioner BOYCE: Reduce the cost.—A. It reflects in the cost?

"Q. Substantial reductions?—A. Absolutely.

"Commissioner Boyce: Why did you not start in April?—A. You will have to ask the executive."

These economies would not be reflected in the company's accounts until two—perhaps three months later—and if persisted in systematically, though with due regard to maintaining efficiency of service, would, from that time forward, be more marked in their effect on the finances of the company.

The application, now before the Board, was launched before these economies were entered upon. The economies were substantial and did not begin to reflect themselves in the accounts until a period of some two months later; yet, without waiting even to commence any economies (such as by later action has been demonstrated to be possible), this application is pressed upon the Board's consideration.

Let us see the results of these economies as they gradually became effective, as shown in the company's statements of operating costs so far issued:

Operating Expenses—May to December (incl.), 1921, as compared with same months in 1920.

——	1921	1920	Increase	Decrease
	$ cts.	$ cts.	$ cts.	$ cts.
May	854,871 57	771,777 97	83,093 60	
June	821,634 89	769,196 19	52,438 70	
July	826,801 61	821,747 36	5,054 25	
August	819,323 41	823,202 71	.....	3,879 30
September	774,465 36	823,076 22	.....	48,610 86
October	760,794 73	858,848 32	.....	98,053 59
November	750,534 61	823,159 84	.....	72,625 23
December	777,440 00	817,963 00	.....	40,523 00
	6,385,866 00	6,508,971 61	140,586 55	263,691 98

The statement is illuminating. Commencing from August last, the month after the application for the new schedule of increased rates was launched, it will be seen that as a result of economies ordered in July, the operating expenses began to decline, and as a result of five months' operation a decrease of $263,691.98 was effected. I think it is fair to presume that what results, in this respect, were possible during these months were possible—at the option of the company—for many months preceding this period. The evidence shows that the economies ordered in July did not become effective until October and November. Leaving out August, therefore, as a negative month so far as results of economies ordered the preceding month were concerned, the decrease in operating costs effected in the four months of September to December inclusive, was $259,812.68—or a monthly average of $64,953.17—or, projected for a year—$779,438.04—or an amount about equal to the annual bond interest. Had these economies been practiced by the company before, instead of after, the proposition to the underwriting firm, their answer would doubtless have been different. In the light of results, as illustrated, the strictures in their letter as to "the unsatisfactory attitude of the Board of Railway Commissioners" are hardly justified. Their broad hint as to economies in operation is more in point, as evidenced by results when, at last, those economies were instituted.

The conclusion I arrive at on the above facts is that the telephone company did not, before launching this application, so readjust its business, and institute proper and reasonable economies as would in their result have shown that the temporary increase granted in April was sufficient to enable it to carry on without any further increase until a stable rate schedule could be prepared for approval of the Board.

The present application is not an emergency application. There is no emergency, nor any emergency condition to be dealt with. Whatever emergency there was in 1919, or prior to April, 1921, which justified a temporary emergency increase by this Board, is now passed. Commercial conditions everywhere, and the statements of the company's business, indicate that; and the best evidence that the present application should not be so dealt with is shown in the admissions by counsel for the company on the argument before the Privy Council, as regards the last application, above referred to, in the following language:—

> "Mr. OSLER: And, my learned friend from the City of Toronto, objected to dealing with the matter in a comprehensive way, and pressed upon the Board, against our protest, that the matter should be dealt with on the evidence that this was an emergency in consequence of the high level of prices and the extraordinary financial conditions, and that the matter should be dealt with on the basis of a pure emergency. Now, we object to that; we said that two years ago one might have thought there was a temporary emergency."

And, in further explaining reason to Privy Council for the last application, Mr. Osler then stated:—

> "The company considered that when it was bringing the matter before the Board, it should recast its rate schedules. The history of the company's rate schedules was that of a sporadic growth. When it was first incorporated there was no controlling body vested with authority to control the rates which were charged. The result was, rates were made in some places in competition, in some cases under agreement with the public bodies, and in other cases they simply established what they thought to be a fair rate, having regard to the then existing development. The result of that was that some years ago the Act was amended. One of the company's Acts of Incorporation provided that the company should not increase its rates without the consent of the Governor in Council. No application was made. The country continued to grow at varying rates, and when we came to make the application that was made this year we found a rate schedule that was not a scientific rate schedule."

And in this case Mr. Osler says (Vol. 380 p. 18524):—

> "Commissioner BOYCE: Then notwithstanding the two increases which you have received of 10 per cent and 12 per cent, 22 per cent, you will say you are face to face with an emergency condition such as you pointed out on those two applications.
>
> "Mr. OSLER: We said on the former applications that we thought the rates should be put upon a permanent basis, we could not see that this was a merely temporary emergency. The Board dealt with it otherwise."

I am, therefore of opinion, that this application must be dealt with according to the form in which it is presented for consideration, namely as an application for approval of a new tariff of rates and not as a temporary emergency application. To treat it as such would be to perpetuate a pure fiction. What is now before us is a new tariff of rates upon a higher scale, and which would provide large additional revenues. In opening his argument before the Board, upon this application, Mr. Osler, counsel for the company, so states it:—

> "Mr. OSLER: May it please the Board. Our application is for the approval of the rates set out in our printed application, with a view to

> securing for the company sufficient additional revenue to make good the amount which the Board intended that we should get by its judgment of the 1st April, 1921."

As pointed out in the judgment of the Board, of May 8, 1919, the company's tariffs in force at the present time are not in touch with existing conditions and exhibit inequalities and some discriminations, and shew on their face that certain districts and cities are paying more than others, under substantially similar conditions. In his judgment, in 1919, (25, C.R.C. p. 61), the Assistant Chief Commissioner quotes from the interim judgment of the then Chief Commissioner as follows:—

> "In my opinion, should it be found necessary to increase the company's rates, they should be increased subject to the Board's further order and to the further provision, in the meantime, that such data be collected and valuations made as will enable a proper telephone rate to be determined when conditions are ascertained to be constant."

And, in the judgment of last April, the Assistant Chief Commissioner says, respecting the grouping of rates then proposed (and now continued):—

> "The general regrouping which had been put forward is tied up to the general percentage of rate increases which the company desires to put in force. Whether or not the groups in general are on a proper basis, I am, in the absence of evidence unable to say. Some of the increases, large as they are, may possibly be justified by facts. An increase of 72 per cent on the business rate in Windsor, of 74 per cent at St. Thomas, of 45 per cent in group 4, covering such places as Brantford, Sarnia, Galt, and Sault Ste. Marie; of 52 per cent in group 5, in places such as Barrie, Lindsay, North Bay, and Orillia, of from 30 to 63 per cent in group 6, and of 50 per cent in group 7, may be justified. But the increases are very heavy, and, still more important, there is no evidence submitted to shew just why these increases in individual cases are justified."

The telephone company having had sufficient time, according to their own admission, since emergency conditions ceased, now brings such a tariff for the approval of the Board. The onus of shewing that such a tariff is a suitable one and meets the various conditions of traffic, with which it is presumed to deal in its operation, lies upon the company, and I would find, as a fact upon the evidence that, the company has not discharged that onus with regard to the present proposed tariff and has not produced any satisfactory evidence to this Board that the proposed tariffs are such as would be suitable, just, and reasonable, for the telephone service mentioned, in the various areas referred to. The same inequalities and discriminations appearing in former tariffs in the same places, (with the exception of Montreal and Toronto), and commented upon in the judgment of this Board, and admitted by the company, appear in these tariffs. There seems to have been no effort in the making of them to adjust the rates in any scientific way to the value of the telephone service to the subscriber, having regard to the population of the telephone area, the number of stations, or the cost of the service therein. The proposed rate increases, over the present rate in these places, serve to accentuate the inequitable and obsolescent features of the existing rate. The grouping of towns, under various rates, is not brought about upon any satisfactory basis as to meeting modern conditions relatively to the number of stations and population and value of service, and the rates quoted are out of line. There is no dispute about this.

As I stated above, no attempt was made at the hearing to explain or amplify, or dealt with in detail, the various rates involved. This was commented upon in the argument:—

"Commissioner BOYCE: Who prepared this statement?

"Mr. SISE: Mr. Paul McFarlane.

"Commissioner BOYCE: And you are asking to put it in force? The evidence is all in, and there has not been a witness called to support any item in the statement."

The Board is asked to adopt them as a whole, and thereby to perpetuate the inequalities referred to. There are discriminations in the tariff proposed—e.g. in the city of London there is a business individual rate specially for physicians, dentists, veterinary surgeons, and nurses, 20 per cent less than the ordinary business individual telephone. This rate seems to be confined to the classes mentioned, only in the city of London, and is not extended to any other place. I quote this only as an example of discrimination, which doubtless, upon a close examination can be found to extend, in other respects, to other places. It would be impossible, in my opinion, for the Board to accede to the request of the company to approve this tariff. In my opinion it is neither just, nor reasonable, and is not suitable to present conditions in the various areas and ought not to be allowed by this Board. In defining what is just and reasonable, I would refer to the principles applicable to advances in rates, and the substance of which involves two propositions, viz:—

1. Whether is is *reasonable*, having regard to cost and value of service; and as compared with rates on other commodities.
2. Whether it is reasonable in the absolute, regarded as a tax upon the people who ultimately pay transportation charges.

Re Freight Rates—9 I.C.C., Rep. 382.

Crews v. Richmond and D.R.W. Co. 1 I.C. Rep. 703.

I think the proposed tariff is open to the objectionable features of both the principles stated above, viz: I cannot, on what is before the Board in evidence, find that it is reasonable from the company's requirements, and I find upon the evidence that it would be neither just nor reasonable, from the point of view of the people, who are called upon to pay the proposed rates.

It remains to consider, as to whether the proposed tariff of the company, being unsuitable and being rejected, this Board should be called upon, upon this application, to provide (*a*) a new tariff suitable to existing conditions, and eliminating all the objections which I have generally pointed out to the old tariff; or, (*b*) provide a percentage increase upon the present exchange rates, in order to enable the company to obtain additional revenue to meet its requirements. I will deal with these in the order mentioned in relation to the statements of the company in and upon which it bases its application to the Board.

(*a*) It is not one of the functions of this Board to initiate a tariff for this or any telephone, or railway company. Its duty, generally, is to examine and pass upon, approve, or reject, tariffs proposed, having regard to whether, in the opinion of the Board, such are just and reasonable, having due regard to the principles mentioned. True, the Board has the power to reject, or amend a tariff, or direct another, but no duty is cast upon the Board to mould one suitable to various conditions and areas of traffic, dependent upon a multitude of conditions, as to which the Board has no evidence before it. The onus is upon the company to furnish this evidence, and it is not, so far, before us.

In his judgment, in the telephone company's application in 1919 (25 C.R.C. p. 26), the Assistant Chief Commissioner says:—

> "But where a regulative tribunal's jurisdiction comes, as it always has done, after the development of a rate situation, the function of that tribunal is to regulate, not to initiate. If the law povided that a regulative tribunal should be an organization initiating rates, the situation would be different. So long as the existing law of Canada stands as it is, it seems to me that more important than the scientific basis is the question of how the rate works."

I therefore find that, there is not before the Board evidence, material, or data, sufficient to enable it, if it were so disposed, and if it were a proper case so to do, to reconstruct, amend, or alter, the present tariff offered for approval, or, to initiate a tariff providing rates in substitution for that now proposed, and which, I think, should be rejected, and that, in the circumstances, the Board should refuse to direct a substantive tariff.

(*b*) I am of opinion that no temporary percentage increase is necessary, or desirable. Such should only be granted to meet an emergency, and, in the view I take, there is no emergency. Mr. Osler, the company's counsel, expressed the same view before the Privy Council and on this application. It is highly desirable that all the company's tariffs of tolls should now be re-cast. To grant a percentage increase upon the present ones would accentuate and aggravate present existing inexactitudes, discriminations, and inequalities. The company's position is such that during the time necessary to prepare the necessary data and information upon which to frame tariffs, suitable to present traffic, it is not imperilling its credit. It claimed at the opening of this application that it has a deficit of over $2,000,000. I cannot so find. A liberal computation of the company's requirements, drawn from the maze of figures presented to us, and with projections on a basis most favourable to the company, would give the following estimated result on the months, May to December, submitted.—

	For eight months period	Projected for twelve months on same basis
	$	$
Exchange revenue	9,221,010	13,831,515
Toll revenue	3,671,857	5,507,785
Total telegraph revenue	12,892,867	19,339,300
Total telegraph expenses	11,002,929	16,504,394
Total net earnings	1,992,533	2,989,299
Interest	794,241	1,191,361
Dividends	1,279,110	1,918,665

SUMMARY

Total net earnings		$2,989,299
Deduct interest	$1,191,361	
Deduct dividends	1,918,665	
		3,110,026
Deficit		$120,727
Surplus 2%, $1,918,665		479,666
Total Deficit		$600,393

Any tariff to be subsequently submitted for approval should be constructed upon the basis of these requirements, subject to further reductions therein, as the economies produce better results, so that the people may get the full benefit thereof.

With the continuation of the economies instituted since this application was brought before the Board, the company stand in no danger on account of this

deficit. It alleges that it must finance some 19,000 extensions. I think that it can do so now, in its present position, as easily, if not easier, than it has financed similar or greater extensions during the past forty years of its history of expansion, under circumstances to which I shall presently refer.

No nice or exact computation of the company's requirements is necessary, in my opinion, to the disposition of the present application. For upwards of two years it has been aware of the urgent necessity for a suitable tariff. It has had knowledge of the obsolescence and inequalities of the present one. It has not seen fit, to put before the Board, for approval, such a tariff as will suit conditions of its traffic to-day, and if, during the time in which it is engaged in the preparation of such, it is obliged to finance, as it has done for over 30 years, without coming to this Board for means to meet its necessities, there will be less hardship and injustice thereby entailed than by seeking to impose by another percentage increase, or by a manifestly unsuitable and unequal tariff, an additional burden on its subscribers. It has large reserves, its plant should be 80 to 90 per cent efficient, as its replacement reserves are in excess in percentage of what according to high authority is considered safe.

Reference to the company's history and progress will show that there is neither emergency, nor crisis, in the company's position.

Up to the year 1902 this company could not increase its tolls. Whatever developments it made of its business—whatever its financial requirements were to meet the expansion and extension of business—to provide increased plant, and generally to provide for a growing business, extending over a wide field, the company had to provide for, irrespective of, and without recourse to rate increases. Although since 1902 it had the power, subject to control, to increase its rates, and since 1906 has been subject to the Railway Act, no application for general increase in rates was made by the company until August 1918, and that application was based upon emergency conditions caused by the war. Notwithstanding this fact, and all through the period of development of the telephone utility by the company, when its practical use was not generally known or accepted, and when the credit of the company was not so great, and its activities in many ways were circumscribed by active competition, the company shews that very great growth, expansion and development took place without taxing its subscribers by increase of tolls. The statement (Exhibit 15), filed by the company is interesting as illustrative of what was accomplished without increase of rates:—

Date	End of Year — Subscribers' Stations	Capital Stock Issued	Total Assets (excluding Cash and Receivables)	Net Earnings	% Net Earning to Total Assets
		$	$	$	%
1880	2,100	377,600	373,333	*11,053	2·9
1855	10,200	1,200,000	1,527,503	166,332	10·8
1890	20,437	1,494,000	2,822,581	179,855	6·3
1895	30,908	3,168,000	4,765,644	326,660	6·8
1900	40,094	5,000,000	7,498,762	436,680	5·8
1905	82,351	8,604,840	14,062,605	1,004,898	7·1
1910	138,370	12,500,000	22,541,382	1,729,576	7·6
1915	242,784	18,000,000	39,789,807	2,221,985	5·6
1916	261,899	18,000,000	42,312,159	2,469,243	5·8
1917	284,261	18,000,000	46,022,325	2,534,071	5·5
1918	303,205	18,000,000	49,682,311	2,104,688	4·2
1919	337,476	22,336,300	55,252,935	2,153,324	3·9
1920	376,361	22,657,000	62,050,089	881,523	1·4

* Net earnings are before providing for interest charges which amounted to $913,483 in 1920.

In view of the insistent contention, pressed upon the Board in each one of the three applications, dealt with by the Board in the last three years, that the extensions of the company's business necessarily involved increased tolls, the above statement furnishes, I think, conclusive evidence of the fact that (*a*) during the years 1880 to 1900—when it had no power to increase rates—it financed successfully over 38,000 extensions; (*b*) from 1900 to 1905 (the period in which the Act of 1902 came into force) it financed over 42,000 extensions, and (*c*) from 1905 to 1917 over 206,910 extensions, or an average of 16,825 extensions per annum, without taxing the public therefor by general rate increase. And, during that period, as the statement shews, it stabilized its credit in the financial world by prudent and economic management, and increased its assets from $373,222 to $46,022,325. The application in 1918 for increase was made, dealt with and granted as a temporary and emergency measure pure and simple, due to sharp increases in cost of labour, materials and money, and the added difficulty of financing in a much disturbed money market. The same conditions justified as a temporary emergency measure the relief granted upon the application of 1919. The conditions imposed by this Board in granting both those emergency increases (1919 and 1921) clearly shew that it never was in contemplation that what was permitted as a temporary and emergency measure, in each case, should become crystallized into fixed rates, as it now seems the company would regard those applications by now filing a tariff for this Board's approval, based upon the rates as twice increased for the temporary emergency reasons mentioned, and with proposed substantial increases thereto.

It is of importance to note in connection with the financial history and large expansion of the company's business, as above referred to, the argument of counsel for the company to the effect that as extensions of the company's business take place and new money is required to meet and provide for those extensions, there must, of necessity, be an increase in the tolls to finance and maintain that expansion. I quote from the argument—Vol. 380, p. 18512 *et seq*:—

> "That is a physical condition which must be met. I do not know how it can be suggested, I have never heard it suggested, that that physical condition can be overcome without an increasing cost per subscriber served. That is a very rough statement, the more you go into it in detail the more it is confirmed, and the larger the figures apparently become, but I say that is a rough statement to demonstrate the condition and the reason for the fact that as the number of subscribers served increases so the cost goes up, not once or twice but many times the cost of serving the original subscribers."
>
> "Commissioner BOYCE: It must necessarily follow then that as the system is extended an increase in the charge to the original subscribers must necessarily follow.
>
> "Mr. OSLER: I suppose so.
>
> "Commissioner BOYCE: Well that is the effect of your argument, the capital investment for extension must always be laid upon the present subscribers, they must pay the carrying charges of that investment."
>
> "Mr. OSLER: Absolutely; the legislation to which I have referred is a statutory requirement, and that is why I referred specifically to the legislation, it does not merely require us to give service to those of the public whom we wish to serve, or the public in any particular area, but it requires us to serve any resident of this country who, being in an area in general served by the telephone company, desires that service.
>
> "Commissioner BOYCE: And another logical result of that argument must necessarily be that telephone rates can never come down, they must always go up.

"Mr. OSLER: I think that probably is a result; I do not wish to raise this question, but unless you reach a point where the service is paid for as and when taken; that is a measured service, the message rate."

The fact—combating above argument—apparent from the history of the company's development as before set out, Counsel endeavours to explain in the following language—Vol. 380 p. 18513:—

"Commissioner BOYCE: Well irrespective of the figures, in the long space of time from 1880 until the first application for an increase of rates that was the condition of things, you were extending and extending at an enormous rate without an increase of charges.

"Mr. OSLER: There were several things that contributed to that, one being the progress of the art, that had some effect. Another thing was our business had been soundly managed, and our credit was of the very best, we were able to finance very cheaply. Another thing, the business did not expand anything like as rapidly in the earlier years as it has recently."

The explanation just quoted is answered by a glance at the table of figures quoted above and furnished by the company. From 1910 to 1915 subscribers stations increased from 138,370 to 242,784, an average of 20,882 per year. From 1915 to 1917 they increased from 242,784 to 284,261—an average of 13,825 per year. In 1917-18 there is shewn an increase of 18,944 stations, and the first emergency application was based upon the operations of those years. The argument that on account of sound management and good credit the company was able to finance cheaply in the earlier days of the expansion of the business, is hardly a convincing one. I did not hear it suggested that in the later years the management of the company's business was not equally sound, nor that its credit was impaired. One would more naturally conclude that sound management and good credit during earlier years would, with the enormous expansion shewn, be productive of better stability in the company's financial position, and, save for the emergent conditions to meet which relief has been twice afforded, ought to be enhanced rather than depreciated by such expansion, if the good qualities referred to have continued, as it is not denied.

If Mr. Osler's arguments that rates must necessarily increase as extensions of the company's business become necessary were now to be adopted, this Board's functions as to approving proposed increases in telephone tolls would be purely mechanical, and the fact that the company's counsel contends for such a principle, when asking for rate increases, gives, in my opinion, at least some added force to the conclusion that no further increases in tolls should be approved, upon the basis of extensions needed, except such as would be involved in a new schedule suitable to traffic as it is to-day, and in other respects just and reasonable, having regard to the value of telephone service and the recognized factors of rate making, and free from the inequalities, discriminations and inconsistencies which characterize the proposed schedule, and all of which must be removed as soon as possible.

I would, therefore, dispose of the reasons alleged in support of the application, as stated in the application, by the following findings:—

1. That the company's estimate of $1,357,500 as its additional requirements, is erroneous and excessive. That the maximum amount required to implement the requisite revenue, to meet all the company's requirements, was $600.393, and that, in my opinion, had economies effecting in five months, decreases of $263,691.98 in operating expenses, been earlier introduced, as was possible, the requirements would, substantially, have been met.

2. (a) That it does not appear that the company made extensive, thorough and adequate effort in the direction of obtaining new money required to finance its requirements. That in so far as the net earnings, at that time, fell short of requirements, they could have been substantially implemented by more speedily inaugurating the economies in operating costs subsequently enforced, as suggested by the financial brokers to whom the company made application for such new money. That with the increased operating revenue, and decreased operating expenses, shewn in the company's statements, and with the substantial and adequate reserves it had accumulated, and with the economies subsequently demonstrated as possible, the company's credit was, and is ample, for the purposes of financing temporary financial requirements, to cover extensions and new business, and—

(b) There was, for the reasons shewn, and upon the facts, no justification for the abandonment of the effort to obtain the new money required, nor for the application to this Board, at this time, upon the basis of a tariff quite out of line with the company's traffic, and unsuitable thereto, for permission to tax its present subscribers for the money required to finance the cost of such extensions of its business.

3. In addition to above reasons, in so far as they are applicable to the third reason stated in the application, and as regards the financing of the requsite money to provide for the alleged pending 16,000 applications for telephones, no evidence has been given, and no reasons given to justify the conclusion that this Board must increase rates of present subscribers to enable the company to provide money necessary for expansions of business, and in the absence of the acceptance of such a principle (which has not been asserted during 37 years of enormous expansion) no ground for relief, on this account is shewn.

4. Covered by conclusions 1, 2, and 3, and

There being no evidence to justify the tariff of rates, now offered for approval, but on the contrary, such tariff being, admittedly out of line, discriminatory and objectionable for the several reasons shewn, approval of the tariff submitted must be refused.

The functions of the Board do not extend to initiating tariffs, and, if they did, there is no evidence data, or material, before the Board, upon which a suitable tariff could be constructed.

No emergency condition exists, and no grounds are shewn which would justify any temporary or emergency increase in rates.

The application must be refused.

Order will go accordingly.

THE CHIEF COMMISSIONER:

By a judgment of this Board, dated the 1st day of April, 1921, written by the Assistant Chief Commissioner and concurred in by Commissioners Boyce and Nantel, a certain increase was given in the rates and tolls to be charged by the Bell Telephone Company, which, in their judgment, after careful consideration, should have placed the company in a position to pay operation and maintenance charges, 4 per cent reserve for depreciation, an 8 per cent dividend, and 2 per cent surplus. An Order was issued thereon, effective the 1st day of May last. On the 23rd day of July, the company came back to the Board, stating that the result of the operation under the Order would not furnish sufficient funds to provide for the requirements therein set forth, and asked that a further increase be granted, not a percentage increase, but that the Board authorize a certain scale of rates set forth in the application, which,

they contended, would produce the necessary funds, remove certain discriminations, and place the general tariff on a more equitable basis than existed at the present time.

The Board has on many occasions laid down the principle that, as a public utility corporation can only charge the tolls or rates which the Board allows them to do, we, therefore, should give them sufficient rates to produce certain results, always assuming that the utility is efficiently and economically operated, and the principle, so far as the Bell Telephone Company is concerned, was enunciated by the judgment hereinbefore referred to.

If the company has been and is now being efficiently and economically operated, and there is no evidence to the contrary, then the questions to be decided are (1) Will the company receive sufficient money under the rates now granted them to produce the financial results hereinbefore referred to? and (2) If not, then how much is required to make up the deficiency and how should it be provided?

Various computations were made by the company and counsel representing the city of Toronto as to the result of a year's operation under the existing tariff, and, in view of the decision of the majority of the Board, it is unnecessary that I should go into any lengthy discussion of the precise method by which the actual year's results may be ascertained; but we now have the monthly statements from May to December, both inclusive, giving us the result of eight months' operation under the present tariff, and I find from the computation worked out by the Assistant Chief Commissioner that, by projecting the result for eight months to a twelve month period, the company will be $600,000 short of the requirements as set forth in the judgment. If we take the last seven months, the deficit will be about $513,000; the last six months, a deficit of $779,000, the last three months, a deficit of $1,006,000; and the last two months, a deficit of $500,000.

These results have all been obtained by excluding the Federal Income Tax as an operating expense. Considerable argument has taken place, but, as the Board had formerly decided that this item should not be considered an expense, I make no further reference thereto but, in my calculations, have excluded it.

It, therefore, seems to me that I am safe in concluding that the company at the end of twelve months under the present tariff will be at least $600,000 short of the amount required under the principles laid down in the former judgment.

The company claim that they have applications for more than 19,000 phones in the provinces of Quebec and Ontario which they are unable to fill on account of lack of the necessary funds, and stated that, in the month of May last, they attempted to raise $5,700,000 by the disposal of common stock, all of which was offered to their shareholders at par. About 67 per cent was taken up, one-half of this amount by the American Telegraph and Telephone Company, and they have been unable since that date to dispose of any large quantity, thus leaving something over $2,000,000 still undisposed of, and they contend that, unless the revenues are such that the investor has a reasonable guarantee of the payment of dividends, they will be unable to raise any large amount of money by this method.

It was stated at the hearing that a certain amount could have been raised on 7 per cent bonds payable in 1925, and considerable criticism has been launched against the company for failing to adopt that method of raising the necessary funds. In my opinion, the company is the proper judge as to the method of financing to be adopted. It is always contended that there should be some relationship between the amount of bonds and stock outstanding in any such utility. As all the existing bond issue of the Bell Telephone Com-

pany matures in 1925, it is, therefore, quite evident that bonds could not be issued for a longer period, and the company contends it would be an improper method of financing to attempt to float short term bonds only to increase the amount which they must provide three years hence, whereas, if they could sell stock, there is no repayment period and it is simply a question of payment of dividends.

While not deciding which is the proper method, I think things of this kind can be well left to the people who have put their own money into the venture and who know more about it than those who have not had that experience. It is very clearly evident that the investing public will not subscribe to the common stock of any company unless they see a reasonable prospect of dividends being earned continuously, and, therefore, when the net income of a utility such as the Bell Telephone Company falls below the requirements set forth by this Board less than a year ago, I am not surprised that their stock issue has been a partial failure.

While this Board has no control over the wages paid by any company to its employees, yet I think we not only are justified but are practically compelled to take these matters into consideration in deciding whether or not in our judgment the company is economically managed, and, therefore, when the Bell Telephone Company applied to the Board in July last, my first act was to demand from them a complete statement of the number of their employees, the services rendered, and the wages paid to each. This I have examined very closely—in fact, it was only on the general assumption that these wages were reasonable that I consented to hearing the application. At the hearing, on a number of occasions I specifically asked the counsel representing the province of Ontario, the city of Toronto, the city of Montreal, the Board of Trade of the city of Toronto, the city of Hamilton, the city of Ottawa, and all other counsel engaged in the case to state whether or not in their judgment the wages were higher than they should have been and wherein, if at all, they could be reduced. With the exception of Mr. Bullen, counsel for the Board of Trade of Toronto, they were all practically silent, excepting the representative of the Attorney General of Ontario, who thought there could be some reduction made in the salaries of the higher officials. The counsel for the city of Ottawa thought the amounts paid the higher officials were entirely reasonable and there should be no reduction therein, and had very little fault to find with the general scale of wages. The remainder refused to express any opinion whatever, and this after being repeatedly invited to do so, as I stated to them very plainly the object which I had in view.

Not receiving any assistance from the counsel other than as above indicated, I am, therefore, compelled to exercise my own judgment, and, in doing so, with a few exceptions, I am unable to see where under present conditions any important reductions can be made. If we take the Executive Department for the year 1921, we find the total salaries paid amounted to $142,992, and, if for the same period we take the Executive, Accounting, Financial, and Legal Departments altogether, we find the total amount is $330,000. Therefore, if very generous reductions were made in these salaries, it would play a very small part in making up the deficit hereinbefore referred to.

As to the other employees, by far the greater amount, in fact around $6,000,000 annually, consists of the wages of telephone operators, mostly female, and the total cost of operation, outside of maintenance, amounts to $9,545,000. The total cost of maintenance, including material as well as labour, amounts to $3,665,000, and while not wishing to lay down any positive instructions, yet, in my opinion, there could be some saving in a number of the employees in this particular branch of the work; but, if there is to be any serious reduction in the cost of operating the plant, it must come out of the employees who are

actually operating it, and I do not think the wages which they are receiving, especially the thousands of girls and women employed as operators, are such that they should be called upon to make further sacrifices under present living conditions.

It was stated by the company that, beginning in the month of August, they commenced to retrench (1) by refusing further increases in salary to their operators and staff generally, who usually reached the maximum in four years, on the ground that economies must be practised and, as practically all their old employees were remaining with the company, they found a much higher percentage of these employees than usual enjoying the third and fourth year salaries; and, (2) by discharging every person possible and still maintaining the efficiency of the plant, the result being that, within three months, 500 employees were laid off, and it was stated by Mr. Scott that he believed they had reached the limit, even intimating that they might be compelled to somewhat increase the staff in the near future.

It was argued and has been stated that the deficit above referred to will be made up by the reductions already referred to. My answer to that, however, is that, during the months of October, November, and December, all of these economies have been in operation and yet I find they fell behind for these three months an amount which extended for one year would amount to $1,000,000, and, for the months of November and December, under the same conditions and extensions, the deficit amounts to $500,000. It seems to me this pretty effectually answers that contention.

If, therefore, the net revenue for the year should be at least $600,000 more than it will be under present conditions and as required by the former judgment of the Board, this amount can only be produced by reducing the wages of the operators and other employees as hereinbefore set forth or by increasing the rates sufficiently to produce that amount of money, which would be a little less than 5 per cent of the exchange revenue. I prefer the latter course, and think an order should issue increasing the rates sufficiently to produce an additional $600,000 per year.

In view of the decision of the majority of the Board, it is unnecessary to enter into any statement as to how I would raise this particular amount of money, excepting to state that there are a number of places in the territory covered by the Bell Telephone Company in which the rates are abnormally low, based upon any well recognized standard of telephone rate making, and I think these should be brought up somewhere near to the position which they should occupy. In other words, I would readjust the rates rather than give a percentage increase, and, if the rates as set forth in the application did not meet my views as to what would be proper under all the circumstances, it would be a very easy matter to change them, because, this Board has absolute power to fix and authorize any rates which to it may seem reasonable. I would, therefore, think an order should issue granting an increase to produce $600,000 per year.

McLEAN, ASSISTANT CHIEF COMMISSIONER:

The matter of telephone tolls charged by the Bell Telephone Company of Canada has already involved two hearings and two decisions. In each of the former hearings, the application has been dealt with as an emergency matter. In order to appreciate the setting of the present application and its relation to the former applications, a summary analysis of the conclusions arrived at in the former decisions seems essential.

In the present application, the company sets out that the rates authorized do not produce sufficient revenue to meet its dividend requirements and, therefore,

do not carry out the intent of the judgment and order rendered by the Board on April 1, 1921. It is, in addition, set out that because of this condition it is impossible to obtain the additional money necessary to finance essential additions to facilities; and, as pointed out in the reasons for judgment of Commissioner Boyce, reference is made to the large number of applications for service which the company alleges it is unable to meet because of lack of equipment and lack of money necessary to obtain such equipment.

It does not appear to be necessary to enter into the alleged consequences of the revenues obtained by the company being deficient as measured by the standards which the Board has set out in its judgments. It is apparent that if the company is unable, under existing rates, with prudent management, to meet the charges which the Board has found reasonable, it follows that there is no surplus of revenue which would be, so to speak, an insurance fund in connection with the issuance of new bonds and stocks. Without labouring the point, it is obvious that additional issues of stocks and bonds will not be acceptable to the investor, simply because there are assets in the plant. He is concerned with live funds furnishing the revenue out of which dividends or interest will be paid. The attitude of mind of the investor has to be taken as it is; and if he does not find such surplus of revenue over and above meeting necessary and proper charges of the company, under prudent management, it follows that he will be unwilling to invest. But, as already indicated, it does not appear necessary to go into this phase of the mater in any great detail because the whole matter, to my mind, goes back to what the Board has decided in the former cases, and the pertinency of the findings there made in connection with the present case. If the findings there made have by efflux of time lost their virtue, then they have no bearing on the present case and it is to be treated as a substantive application. If, however, the principles laid down in the former cases, in whole or in part, apply, weight must be given to them. The increases made were dependent upon certain conditions; and the question has to be faced, do the conditional arrangements still exist?

In the judgment rendered on April 1, 1921, the dividend rate was not treated as an emergency rate, nor was it so regarded by the expert witnesses appearing in support of those who opposed the application of the Bell Telephone Company. As stated in the judgment, "Exception to the rate of 8 per cent as being reasonable was not taken by the experts called on behalf of those opposing the application; on the contrary the evidence was that this was a reasonable rate."

In the cross-examination by Mr. Phippen of Mr. McKenzie, who appeared as the finacial expert supporting the criticisms of the proposed increase as voiced by the City of Toronto, discussion took place as to the rate of dividend. Vol. 352, pp. 1152, 1153, in response to a question by Mr. Phippen, Mr. McKenzie said that the company had been very well managed and its properties and its credit well conserved. He was of the opinion that it had been reasonable in the distribution of its profits. He considered the 8 per cent dividend a reasonable one, and was of opinion that the company in paying 8 per cent on its common stock, and in putting all the balance of its profits back into the property, was conducting its business on sound business principles. In anwer to a question as to whether the Board in dealing with rates should compel the Bell Telephone Company to lessen its established dividend of 8 per cent on common stock, Mr. McKenzie answered "No," and stated he understood this was not the policy of the Board. Mr. McKenzie was in misapprehension here since no declaration of policy on the rate of dividend of the Bell Telephone Company had been made by the Board. On being asked his personal view, he said he would not suggest and did not think there was any necessity for a reduction in the dividend. He said, further, that he did consider the dividend a reasonable one.

At p. 1155, in cross-examination by Mr. Phippen, the witness stated that he was assuming in connection with the remarks he made that the 8 per cent dividend was continuing.

Mr. Hagenah, who appeared for the City of Montreal, was cross-examined by Mr. Osler. The discussion which took place will be found in evidence, volume 351. At p. 873, in a question as to the governing rate of return in the case of the United States Commissions, it was stated by Mr. Hagenah that 7½ to 8 per cent on the fair value of the property was common. At pp. 962 and 963, the same witness, in cross-examination, was asked various questions by Mr. Osler. In answer to the following question,—

> "And the rate of 8 per cent, or I think you put it 7 to 8 per cent, which was considered a reasonable and proper rate some years ago, bore a certain relation to the investing returns on securities such as mortgage bonds of good industrial corporations, and mortgage bonds of railway corporations".

the witness answered "Yes."

On the evidence, the dividend rate of 8 per cent was admitted to be a reasonable one. Such admission having been made by the qualified experts of parties opposing the application was accepted in the Board's judgment as being a matter on which it was not necessary to make a specific ruling. It being a matter of agreement, the Board's computations as to what was necessary in connection with the dividend was based upon the 8 per cent rate as one factor.

The dividend rate of 8 per cent was not developed as being an emergency rate. It was admitted to be a reasonable and proper rate, taking all things into consideration. It is, therefore, a continuing factor.

In the Board's judgment of April 1, 1921, explanation has been given why Income Tax was not treated as a proper operating cost, but as something which should be charged to surplus of operation by the owners of the property and should not be borne by the subscribers to the service. This follows what was set down in the earlier decisions in the Telephone Rate matter as set out at *25 Can. Ry. Cas, p. 12.*

There remain to be considered two factors which have been given emergency treatment and in connection with which the burden was subdivided between the company and the telephone user. These two factors are surplus and depreciation.

In the judgment of April 1, 1921, the company had included in its figures a factor for surplus amounting to 4 per cent on the common stock, and reference was made to the evidence in the Western Rates Case by Mr. Mueller who appeared as expert for the Dominion Government, and who testified that a surplus equal to 50 per cent of the dividend rate was proper.

The Board was of opinion that some surplus was necessary. The necessity for surplus was succinctly stated in Mr. Hagenah's evidence when he said it would be poor business and a bad course for the company to adopt an advertisement to the public that it was paying in dividends every cent it was earning over and above fixed charges. It is true that the financial expert for the city of Toronto objected to the inclusion of any item for surplus. The Board decided, however, that an item for surplus was necessary; and the Board, therefore, has no choice but to stand by its conclusion which was arrived at after careful consideration.

Mr. Hagenah recognized, under normal conditions, that 4 per cent surplus on stock was desirable; but as a temporary condition, to be dealt with by way of temporary relief, the figure so arrived at was cut in two, thus leaving a surplus of 2 per cent.

In the decision of April, 1919, the Board decided not to adopt the depreciation ratio of the company but as an emergency measure to put in a depreciation ratio of 5·7 per cent, which was computed would mean a reduction of some $330,000 in the amount chargeable to depreciation.

The question was further gone into in the decision of 1921; and, after careful consideration, a further temporary revision of the depreciation ratio was directed. Mr. Hagenah was of the opinion that the 5·7 per cent which had been put in force as an emergency ratio in 1919 was something which was substantially a minimum.

The Board, recognizing that on account of the nature of the functions with which the depreciation reserve is concerned it is unsafe to take the payments out in a single year, as a measure of which is normally necessary and proper in a period of years, decided that in aid of the emergency condition which was found to exist there could be borrowing from the depreciation fund for a limited time; that is to say, the annual contribution to said fund may be lessened; and the Board decided for a limited time, that the rate of 4 per cent on the average depreciable plant, which was computed as being approximately 3·64 per cent on the total plant, should be applied.

As emphasizing the emergency nature of the depreciation ratio, reference may be made to the decision rendered by the Board in July, 1921, in connection with the application of the British Columbia Telephone Company for an order granting an increase in exchange rentals and charges for service. In the judgment, a depreciation ratio of 6·04 per cent was allowed. In the evidence in this case, Samuel H. Meldrum, who was called as an expert, testified as to the rate of 6·2 per cent being a reasonable and proper rate.

The American Telegraph and Telephone Company during the year 1920 had a depreciation ratio of 5·3 per cent. This was referred to in the British Columbia Telephone Case. The figures on which this ratio was built up are not before me, but my understanding is that one important factor is the large amount of underground work which has been done, thereby lengthening the life and lessening the annual contribution.

In the application of the city of Toronto to the Privy Council against the increase of rates in the decision of April 1, 1921, which appeal was heard before the Privy Council on June 14, 1921, and referred back to the Board, exception was taken by counsel for the city of Toronto to the provision made in said judgment for the depreciation ratio, and the contention was made in the following language: "All I say is that there should be only allowed to be taken by the company for depreciation in any year, for the next year or two until the case can come under review, the million dollars actually required for replacement".

In the decisions, therefore, there are two sets of factors: (1) The dividend rate and the question who is to bear the burden of the income tax. These have been treated as not being concerned with an emergency situation and the findings made are not limited in time. (2) The surplus and depreciation. These both have been treated as being related to emergency conditions and limited in time.

It is contended that there is not an emergency situation before the Board. With this position, I am unable to agree. The measure of relief which was granted on April 1, 1921, was, in my belief, justified because of emergency conditions. Reference has been made in the Reasons for Judgment of the majority to the discrepancies and discrimination which exist in the existing schedules, and which, it is pointed out have been aggravated by percentage increases.

I am, and have been from the outset, thoroughly cognizant of what the discriminations and disparities in the existing rate system are; but, for reasons set out at length in the judgments of mine, already referred to, I have been of

the opinion that the Board had to deal with the matter from the standpoint of emergency, and I cannot see that the emergency condition which led to the decision of the Board in April, 1921, has passed.

In arriving at the rates as therein computed, the Board endeavoured to forecast as far as possible the downward movement in costs, both in labour and material, which were taking place. The question of downward movement of costs requires some consideration later.

But as bearing on the condition of emergency, it is to be noted that the Board in retaining the conduct of the case still calls for returns based on the surplus being limited and also on the depreciation ratio being limited. The Board has expressed the opinion that the limitation of the surplus is justifiable under emergency conditions. The following language was used in the decision of April 1, 1921:—

> "Differences do appear in the opinions of the experts; at the same time. I think the conclusion is unescapable that some surplus is necessary. Under the existing conditions, however, whatever might be a justifiable ratio for surplus under normal conditions, I do not think the same line of argument is controlling here."

The depreciation ratio is fixed on an emergency basis.

The monthly figures which measure the condition of the Bell Telephone Company have as two essential factors the elements of surplus and depreciation based on an emergency condition. So long as these factors are limited, as they are, by the Board's action, and so long as the Board does not declare them to be factors based on normal conditions, instead of emergency ones, I do not see how the existing situation can be regarded other than as an emergency one.

The question of economies in connection with the operation of the company is raised, it being alleged that there are economies available which will offset any disadvantageous position in which the company may find itself. In dealing with the condition of a company subject to the Board's jurisdiction and seeking increase in rates, it goes without saying that the Board should be satisfied before allowing any increase that the management is a reasonable and prudent one.

In the evidence given in connection with the case which was decided April 1, 1921, Mr. Guilfoyle, in answer to a question of Mr. Phippen, said that the company appeared, to the best of his knowledge, to be well and economically managed throughout, and that so far as one could judge from the books had been honestly managed (Evid. vol. 352, pp. 1067-68).

Mr. Hagenah, in examination by Mr. Osler, was asked this question (Evid. vol. 351, p. 872):—

> "Now, I think you will agree that this company has been conservatively managed, and well managed?

He answered:—

> "I am satisfied it has been. I think the company is to be complimented in the manner in which its business is effected. I speak of that very favourably for the company."

Mr. MacKenzie, at Evid. Vol. 352, p. 1153, in answer to a question of Mr. Phippen, stated that the Bell Telephone properties had been well conserved, and the credit of the company well conserved. In answer to the specific question, "The Bell Telephone Company has been a well managed company?" he answered, "I would say, very well managed."

This information refers to conditions in 1921. Have there been any such changes in conditions of management as would justify the conclusion that there was not prudent and reasonable management?

In the discussion, attention was directed to the question of wage costs and possible economies in connection therewith, either by way of reducing the number of employees or by reducing the wages of those employed. Without going into the matter in detail, since this has already been developed in the other two judgments, one very important factor in connection with the pressure of increased costs upon the telephone company has been the increase in wages. In the material presented before the Board, there were suggestions that economies in this respect could be made. It seems to me that the main line of attack in regard to the economies which it is contended can be made is in connection with the wage bill. Evidence was put in before the Board on behalf of the company showing decreases in costs which had been operative since September. It was contended by the official of the company responsible that further economies in connection with the reduction of the operating staff were not feasible, as they would mean putting an unduly heavy burden upon the girls operating in the telephone exchanges. While there have been considerable increases in the wages paid in the telephone business, the increase has been gradual; and there is to my mind no such evidence before the Board as would justify it in concluding that the scale of wages paid was in such a degree excessive as to materially affect the decision of the Board as to rates.

What was said about wages was, on the whole, extremely generally. On careful consideration of the body of evidence submitted, I am not of opinion that there has been such improvident management as would justify the Board in concluding that the returns in accordance with the findings laid down in the Board's judgment should not be allowed.

The question now has to be considered—what is the situation of the company under the rates which it is allowed to charge, with the limitation attaching thereto, in respect of the factors already defined; and the further question, to what extent the existing situation is in conflict with the findings of the Board as to the factors of return which are reasonable.

As pointed out in the Reasons for Judgment of Commissioner Boyce, the returns for the eight-months period, projected for 12 months on the same basis, show, after deduction of interest, dividend, surplus, etc., in round numbers, $600,000 of a deficit. While the summary as given does not refer to depreciation, the depreciation modified and limited, as pointed out, is a factor in this.

It is pointed out in the same Reasons for Judgment that the economies began to be effective about September. If the figures for September to December, inclusive, are taken and similar deductions made as in connection with the eight-months' period, a year projected on this period in which the economies referred to are operative would show, a deficit of $589,486.

As bearing upon the emergency condition, figures in regard to surplus and depreciation may also be accepted for the same period. I take this period to form a projected year because it shows the portion in which the economies emphasized have been operative. In the projected year as set out, the revenues as computed fall $102,380 short of meeting interest and dividends. The item of surplus at 2 per cent is $487,106. These two sets of figures make up the total as given. If the surplus were computed as of normal times, say, on 4 per cent on the stock, this would add another item of $487,106. The depreciation for the months September to December amounts to $775,259, which extended on a year's basis would amount to $2,325,777.

The rate of depreciation during the months September to December is averaged at 3·8. This, in fact, is the rate from June to December. As pointed

out in the decision of 1919, 5·7 was taken as the emergency rate; and it was subsequently testified by Mr. Hagenah that this amount, under normal conditions, was essential as a minimum, and the proposition for a further reduction in the depreciation ratio was simply as a matter of temporary need. If, instead of the present emergency ratio averaging 3·8 on average plant in service, the emergency ratio of 5·7 taken in the first instance in 1919 were applied, this would mean an addition of 50 per cent to the depreciation ratio; that is, the total would equal $3,488,665. Putting it in a summary way, if it were admitted that surplus should be charged as a normal charge at the rate of 4 per cent on stock, and if a rate of 5·7 were taken as a normal ratio, then these two items would amount to $1,649,994; or, omitting the item of surplus, the added depreciation would amount to $1,162,888.

I do not say that these factors should be included as measuring the present need of the company, because I consider the present need of the company still to be an emergency one and measured as to the emergency situation by the limitation in surplus and the limitation in the depreciation ratio; but if it is contended that the emergency situation has passed, then, as a minimum, it would seem to me that the depreciation ratio of 5·7 should be applicable, with the result as to additional need of revenue which is shown.

But, as I have already pointed out, I deal with the matter entirely from the standpoint of an emergency in relation to the principles laid down in the Board's Judgments; and I find that if a projected year, based on the 8-months period is taken, that the company falls some $600,000 short of the revenue which would accrue on the basis of the factors accepted by the Board, or if the four-months' period from September to December is taken for the reasons already mentioned, it would fall some $589,000 short of the revenue which would accrue on the basis of the factors accepted by the Board.

In view of the finding of the majority, I will not deem it necessary to express any opinion as to the form or basis of the proposed tariff revision filed by the company in this application.

APPLICATION OF CANADIAN NATIONAL MILLERS' ASSOCIATION FOR REDUCTION IN EXPORT RATES ON GRAIN PRODUCTS, AND APPLICATION OF DOMINION MILLERS' ASSOCIATION *re* FLOUR ARBITRARIES OVER WHEAT FOR EXPORT.

Judgment of Assistant Chief Commissioner, March 6, 1922, concurred in by the Chief Commissioner, Deputy Chief Commissioner and Commissioners Rutherford and Lawrence.

Since the hearing additional written submissions have been made by counsel for the Canadian Pacific Railway Company and for the Canadian National Millers' Association, the latter having been received on March 1.

At the hearing, Exhibit No. 1 was filed by counsel for the Canadian National Millers' Association. This sets out in summary form the Canadian Pacific rates from Goderich, Ont. (ex-lake) to Montreal for export on wheat and flour. This summary covered the period from January 1, 1917, to January 1, 1922. It also set out the rates to St. John, N.B.

Attention is drawn to the fact that while on January 1, 1917, the spread between wheat and flour at Montreal, for export, was 1·67 cents per 100 pounds, and at St. John 1·84 cents, on January 1, 1922, the respective spreads were 7·66 cents and 7·83 cents per 100 pounds. The course of the tabular summary of spreads is interesting. Some twenty-three tariff references are given. In the case of Montreal, for export, the average spread on these rates was 3·04 cents. An important factor affecting this average spread is the spread of 10·16 cents under the tariff effective August 9, 1921. It may be noted, further, that fifteen

of the spreads cited fall below the average of 3·04 cents. These fifteen have an average spread of 1·40 cents:

Since April, 1921, the course of the spreads has been upward. In the period prior to this covered by the Exhibit, the course has been, with fluctuations, irregularly upward.

In the case of St. John, for export, the average spread, on the figures given, is 3·69 cents. Here, again, the spread of August 9, 1921, viz., 10·33 cents, is an important factor tending to make the average non-characteristic.

Fourteen of the spreads fall below the average of 3·69. The average of these fourteen is 1·89 cents.

Similar irregularities in the advances in the spreads may be found here as in the case of the figures concerned with Montreal. Without, at this juncture dealing with the factors controlling these rates, the irregularities in the figures themselves, as measured in rates and rate differences, would seem to point to the two sets of rates not being subject to identical controlling factors.

Before the date of hearing, the Secretary of the Dominion Millers' Association intervened. His intervention was concerned with the question of the difference between the wheat and flour rates, for export, from mills in Ontario and Quebec to West St. John as compared with the difference between the flour and wheat rate from Fort William to West St. John, for export.

A rate of 35½ cents on grain from Fort William to West St. John, effective January 1, 1922, was quoted as against a flour rate of 36½ cents; and the rate on wheat shipped from Fort William, milled at Montreal, and the flour shipped to West St. John, for export, is quoted, at 37½ cents per 100 pounds, being 1 cent per 100 pounds, or the stop-over charge, more than on flour shipped from Fort William.

It is also set out that the tariff in question quotes the rates from Goderich and Port McNicoll at 15·17 cents per 100 pounds, to West St. John, for export, while the rate on flour milled from the same wheat, shipped from the same points to West St. John, for export "is 23 cents per 100 pounds milled at Toronto and Montreal."

It is stated that allowing 1 cent per 100 pounds for stop-over charge, this makes a differential over wheat on flour milled from ex-lake grain of 6·83 cents per 100 pounds, against only 1 cent per 100 pounds on flour which the mills at Port Arthur and West have to pay; and request was made that the Board order that the railways do not charge a greater differential over wheat on flour milled ex-lake than is charged on flour from wheat shipped from Port Arthur and milled at that point and west thereof.

Order of the Board No. 586, dated July 25, 1905, dealing with a complaint regarding rates on flour and other grain products, fixed the basis for export rates from Ontario points, which were held to be competitive with those from the United States by prescribing groups from which rates would be determined on percentages of the Chicago-New York rate, with special provision as to the export rate to Montreal. Goderich, Midland, etc., were placed in the 78 per cent group and traffic originating at these points would be so based.

The rates on ex-lake grain and products milled therefrom have not, however, been established under the above Order but are subject to American competition, and comparison of the rates from Bay ports may reasonably be made with the rates in effect from Detroit, Mich., which is in approximately the same territory, or in the 78 per cent group.

The rate on flour from Bay ports (including milling of 1 cent) was, prior to April 25, 1918, 14 cents per 100 pounds.

On June 25, 1918, the railways in the United States were allowed to increase their rates by 25 per cent and the rate from Detroit on flour ex-lake and on

flour milled from ex-lake grain to New York, for export, was on that date increased to 17½ cents per 100 pounds.

On the same date, the Bay port rates were increased to 16½ cents and on August 26, 1918, to 17½ cents to Montreal, so that on the latter date the rates were on a parity with those in effect from Detroit. This rate remained in effect from both Detroit and Bay ports until August 26, 1920, when the United States roads were permitted an advance of 40 per cent, the Detroit-New York export rate being advanced to 24½ cents per 100 pounds.

On August 27, 1920, the next day, the rate from Bay ports to Montreal, for export, was raised to 20½ cents, and the C.P.R. tariff C.R.C. No. E-3747, giving effect to this rate, shows as authority General Order No. 304. This general order permitted the same advance in export rates from Canada as was made from competitive territory in the United States.

The Canadian railways did not at the time take full advantage of General Order No. 304 permitting an advance of 40 per cent, but on October 23, 1920, by Supplement No. 24 to C.P R. Tariff C.R.C. E-3747, the rate was raised to 24½ cents, the same as applicable from Detroit. This supplement showed as authority General Order No. 308, but this was certainly incorrect as General Order No. 308 covered domestic business.

On September 23, 1921, the rate on flour ex-lake and on flour milled from grain ex-lake, Detroit to New York, for export, was reduced to 19½ cents per 100 pounds, by Supplement 29 to W. J. Kelly's Tariff C.R.C. 659, and on October 15, 1921, by W. J. Kelly's C.R.C. 742, the rate on wheat flour was reduced to 18½ cents.

This Detroit rate must have been considered competitive as the Bay port rate was the same from August 26, 1918, to August 27, 1920, and from October 23, 1920, to September 3, 1921. From the latter date, however, the Canadian railways ignored the competition.

The matter of water competition as a factor bearing on the situation herein involved was before the Board at an early date, in the decision of the Board of February 29, 1908, in the complaint of the Ogilvie Flour Mills Company (file 5195, Case 1819). In the report of the Board's Chief Traffic Officer, which was adopted as the decision of the Board in the above case, attention was drawn to the fact that the highest rail rate obtainable from Georgian bay and Lake Huron ports to Montreal on wheat for export was fixed by the rate prevailing from Buffalo to New York for the time being, which in turn is regulated by the competition of the Erie canal.

Another factor affecting the wheat rate is the competition with the all-water lines to Montreal or to Buffalo. The flour milled from ex-lake wheat necessarily moves all rail and, therefore, is not subjected to the same competition.

While, during the past year, on account of the somewhat abnormal conditions, there has been an increase in the Montreal movement, which represents tonnage taken away from the Buffalo movement, the general situation still remains that there is an important competitive factor by way of Buffalo. This is recognized in the presentation of the case by counsel for the applicants. Reference was made (Evid. Vol. 383, p. 589) to the fact that there was a big movement of Canadian wheat from Buffalo. It was stated the United States Government allowed the wheat in in bond, with no duty out if it was going to be exported; and, further, that the United States Government allowed the same number of pounds to be exported if brought in in wheat. The result was stated to be that the Canadian wheat, which was ground into flour in the United States, supplies bran and shorts free of duty in the United States. The rate on flour from Buffalo, for export, was given at 16 cents; and it was stated

that the 16-cent rate had been tariffed to be good until January 1, 1922. Documentary evidence was submitted to show that the 16-cent rate in question had been extended to cover shipments up to and including June 22, 1922.

Following the statements which have been summarized, counsel for the applicants said, at p. 590:—

> "So that the result of that is that the very same wheat which our mills want to grind in Canada and send as flour to Europe is taken to Buffalo, ground there and sent back to the Atlantic seaboard in the United States at a 6-cent preference over the rate on Canadian flour."

The competition by way of Buffalo was again referred to by counsel for applicants at p. 593. In answer, however, to a question whether the competitive rate via Buffalo was the measure of the rate properly chargeable in Canada, counsel said, at pp. 593, 594, "No," and that the Canadian rate on wheat was the measure. At the same time, he said there was an existing condition giving the American miller an advantage of six cents over the Canadian miller in handling Canadian wheat at Buffalo.

The case as presented emphasizes the importance of the competitive route via Buffalo. Applicants ask that an Order be issued that when freight rates are advanced or reduced on grain the same rates should apply to the products thereof, to prevent discrimination which it is alleged at present exists. It does not seem to me that this is an arguable proposition unless the rate factors affecting both commodities are substantially the same.

As bearing on the disadvantage which it is alleged the Canadian miller is subjected to, it is set out that the existing spread in rates facilitates the moving of Canadian wheat to England which there is ground into flour, with a resultant disadvantage to the Canadian miller desirous of shipping.

While it may as a matter of trade policy be advantageous to export the milled product in preference to the unmilled grain, the Board has to approach the matter not from the standpoint of trade policy but from the rate standpoint, and has to deal with the question whether the existing rate arrangement is discriminatory and, also, whether the rate attacked is unreasonable in itself.

There are, it seems to me, three questions involved:—

(1) Should the rate via Buffalo be taken as a measure of what the export rate to West St. John should be?

(2) Are there especial competitive conditions holding down the grain rate?

(3) If so, is the flour rate, for export via West St. John, as charged, unreasonable in itself?

Dealing, first, with the question of the rate via Buffalo, it has already been pointed out that counsel for the applicants stated that this rate was not taken by him as being the measure of what the rate should be in Canada (Evid. Vol. 383, pp. 593-594). If the rate by way of Buffalo is not to be taken as the measure of the reasonable rate chargeable in Canada, then the suggestion that the Canadian rate should be adjusted to meet this competition falls to the ground and need not be further dealt with.

The essence of the contention involved is put succinctly in the words of General Labelle:—

> "We are not asking for a reduction on that wheat because we know perfectly well that cannot be done. . . . . We know they have made a rate on wheat because they have to meet certain conditions in competition with other railways, but we claim that whenever these conditions have to be met they should be met with flour in the same way. If in

> order to get the wheat out of the country, in order to get it exported, they must accept a certain rate, then they should consider the flour has to meet the same rate, in order to meet the competition on the other side."

In other words, it is recognized that certain competitive conditions have to be met in the case of wheat. The witness, it seems to me, in contending that flour should be treated the same way is concerning himself with his business needs, and not with the question whether both commodities are subjected to the same competitive conditions.

I find that there are special competitive conditions operative in regard to wheat which are not applicable, on the present record, to flour, and that the spreads referred to do not show that there is an undue preference to wheat or unjust discrimination against flour on the export movement concerned.

The significance of the flour rate of 16 cents from Buffalo is qualified by the statement of counsel for the applicants, as already set out. Mr. Lahey, in evidence, gave the wheat rate during last season as 15·17 cents as against the flour rate of 16 cents. On the New York Central mileage of 438, the ton-mile rate on flour is 7·3 mills. On the short line mileage of 396 miles, Buffalo to Hoboken, the ton-mile rate is 8·08 mills.

It is true that from Montreal to West St. John there is, as an outcome of the export basis applied, a difference of only one cent; and it might, therefore, be argued that the rate made up of two factors—one concerned with distance and the other with a blanket—cannot be measured in a ton-mile rate where distance is a necessary factor. However, in order to earn the rate the goods have to be hauled the total distance regardless of how the rate is built up; and I, therefore, think it is fair to make comparisons based on the total distance.

The average distance from Bay ports to West St. John is 894 miles. The existing grain rate is 15·17 cents. This gives a per-ton-mile rate to West St. John of 3·39 mills. The rate of 23 cents on flour to West St. John (as per Exhibit No. 1) includes a 1-cent stop-off charge. This rate of 23 cents gives a ton-mile rate of 5·14 mills. But the stop-off should be deducted to obtain the net rate on flour. Applying this to the average mileage as above, the result is 4·92 mills per ton per mile.

Mr. Lahey, of the Quaker Oats Company, who supported the application, said:—

> "I may say very frankly that I do not just see that any rate or system of rates that produces at least a rate that is no higher, or is of no greater yield than one-half cent a ton is high."

It is only fair, however, to say that he qualified this general statement in connection with the question of discrimination.

The Board in considering the question of absorption of terminal charges in *Montreal Produce Merchants' Association vs. G.T. and C.P. Rys., 9 Can. Ry. Cas., 232,* recognized, at p. 237, the effect of absorption of terminal charges on net earnings of a railway company. It is proper to consider this factor in the present case.

While West St. John is the pivotal point of the present application, the situation at Montreal may also be considered.

At Montreal, during the export season of navigation, the railway absorbs on flour a terminal of 4 cents per 100 pounds. This covers switching, wharfing, wharf warden's fees and the unloading at the dock. In the case of wheat, there is a terminal of 1 cent per bushel. This covers elevation and various charges by the Harbour Commissioners; of this, the rail carriers absorb six-tenths of 1 cent per bushel, the balance being absorbed by the water carriers. The arrangement, it is testified, is forced on the railway by the action of the water carriers. This means absorption of 1 cent per 100 pounds by the railway. In

addition, a switching charge of $3 per car on wheat is absorbed. This figures out at three-tenths of 1 cent per 100 pounds. On present figures, the flour rate, less absorption and less the stop-off, gives a net rate of 17 cents, while in the case of wheat the net rate is 13·04 cents. The spread is 3·96 cents.

At West St. John, there is a terminal of 2½ cents per 100 pounds on flour while there is no absorption on wheat. This leaves earnings on flour of 20½ against a rate of 15·17 on wheat, or a spread of 5·33 cents per 100 pounds. Deducting, as before, the stop-off charge, the net result, after both deductions, is the figure of 19·5 cents. This gives ton-mile earnings of 4·36 mills.

It was contended by counsel for the applicants that "a comparison of the 22-cent rate with the domestic rate of 19½ cents shows that it is excessive." The rates referred to are to Montreal. It is to be borne in mind that the 19½-cent rate has been arrived at by a reduction of 10 per cent under General Order No. 350.

Under General Order No. 304, effective August 26, 1920, and with a view to maintaining the parity of rates between United States and the Canadian Atlantic ports, the same increases were permitted in the case of special tariffs on freight traffic to Montreal, Quebec, St. John, West St. John and Halifax, for export, as under the Interstate Commerce Commission Order which was effective on the same date.

The provisions of General Order No. 350, which directed reductions in the territory east of Fort William and Port Arthur to a basis of 25 per cent over those effective September 13, 1920, did not apply to export rates, but applied to domestic rates alone.

However, the rate of 22 cents now tariffed to Montreal and which became effective October 18, 1921, is 125 per cent of the rate prior to August 27, 1920; that is the date when the increase under General Order No. 304 became effective.

In comparing the domestic rate with the export rate, factors of absorption falling under the latter and not under the former must be borne in mind. While the difference in rate basis on the traffic concerned is 1 cent per 100 pounds, as between Montreal and St. John, the fact is that from August 27, 1920, until September 13, 1920, the Montreal rate on flour for export was 20½ cents as against 26 cents from St. John (see Exhibit No. 1). The difference is due to the fact that the St. John rate had been brought to a parity with the United States export rate basis, while in the case of Montreal the rate, pending the issuance of General Order No. 308, was held down by the domestic rate plus the additional charge ordinarily absorbed in the export rate. The following excerpt from a communication on file from the General Foreign Freight Agent of the Canadian Pacific Railway Company is material:—

> "Under an order of the I.C.C., the 'at and East' rates from Buffalo to New York, for export, were increased effective August 26, 1920, whereas, between points in Canada an equivalent advance was not allowed until September 13, 1920. In the interval we published from Bay ports to Montreal a domestic rate of 15½ cents, plus terminal of 4 cents, with a stop-off of 1 cent per 100 pounds, making a total of 20½ cents per 100 pounds.
>
> "Under General Order No. 308 of the Board of Railway Commissioners for Canada, we were permitted to increase our rates 40 per cent. With an increase in the domestic rate, this allowed us to increase our rate from the Bay Port to Montreal to the full extent of the advance made in the rate from Buffalo to New York."

I am of the opinion that the existing rate on flour to West St. John is not unreasonable.

The competition on wheat from Bay ports is operative in the case of the Dominion Millers' Association just as it is in the case of the Canadian National Millers' Association. The movement from Fort William is an all-rail one over which wheat does not move in summer when the water competition is available. As corrected by Mr. Watts in the course of an explanatory statement, flour and wheat from Fort William are on exactly the same basis, the difference in rate being due to milling-in-transit.

If this method of treating the subject is taken, then there should be deducted from the rates charged on wheat milled in transit at eastern mills the amount of the transit charge; otherwise, the respective charges would not be on a comparable basis.

If flour and wheat are taken, in terms of Mr. Watts' explanation, as being on the same basis at Fort William, this would mean that all rail they were on that basis of parity which applicants are contending for. The disparity which exists and to which further attention is drawn by Mr. Watts' examples is but another illustration of the effect of the water competitive situation as affecting the wheat movement via Bay ports, and is not, on the record before us, a measure of unfair treatment to flour.

While on the record and for the reasons given the Board is not justified in directing that the existing rate on flour to West St. John be reduced, it may be noted that during the course of the hearing it was strongly intimated by the railways that coincident with the opening of navigation from Montreal, the existing rate of 22 cents on flour, which includes the stop-off, would be reduced to $19\frac{1}{2}$ cents. Deducting the 1 cent for stop-off, this would give a net rate of $18\frac{1}{2}$ cents. It has already been indicated that there is at Montreal an absorption of terminal charges on flour amounting to 4 cents per 100 pounds. This would give earnings of $14\frac{1}{2}$ cents per 100 pounds on flour as against 14·34 cents on wheat as at present. In order to make the comparison exact, however, there must be deducted from the present wheat rate the absorptions amounting to 1·3 cents per 100 pounds already referred to, thus giving earnings of 13·04 cents against $14\frac{1}{2}$ cents, or a spread of 1·46 cents.

APPLICATION OF C. N. RYS., *re* INSTALLATION OF GATES AT BAY BRIDGE ROAD BELLEVILLE, ONT.

Judgment of Commissioner Boyce, March 17, 1922, concurred in by Assistant Commissioner.

By Order No. 25932, dated March 10, 1917, and in consequence of a fatal accident at this crossing (then protected by automatic bells on both Canadian Pacific railway and Canadian Northern railway installed in 1912) which took place on November 4, 1916, whereby one Richard Oliver, of Mountain View, Ontario, was killed by an eastbound Canadian Pacific Railway passenger train, and following a hearing at Ottawa on March 6, 1917, protection by gates was ordered at this crossing, the gates to enclose the tracks of both Canadian Northern and Canadian Pacific railways, which run side by side at this point, and to be operated day and night, the cost of installation and maintenance to be borne equally by the two railways. By subsequent Order No. 26300, dated June 30, 1917, the gates were ordered to be installed by August 31, 1917.

The gates so ordered have not been installed, the difficulty—almost impossibility, of obtaining the material necessary for their construction and installation, during war years being represented, on successive occasions, to the Board as a reason for the extension of time for compliance with the orders directing protection by gates, granted by the Board.

The applications for extensions were in each case substantiated to the satisfaction of the Board and the protection by watchmen night and day was maintained.

No accident has been reported as having occurred at this crossing since that on the 4th November, 1916, referred to.

The railways concerned now join in an application to the Board to be relieved of the Order requiring protection by gates, and to substitute automatic protection by double automatic illuminated bells and wig-wag signals—bonded to the tracks of each railway in both directions—one bell operated by each railway; that is, a bell and wig-wag signal on each side of the crossing, each of which is bonded east and west to the railway it is to protect, and which warns by bell ringing and red disc waving the approach of any train from either direction on that railway. That application is the one now before the Board for consideration.

The crossing in question is the intersection of the Bay Shore (or Bay Bridge) road with the tracks of the Canadian Pacific railway and Canadian Northern railway two parallel single tracks (one on each railway) 15 feet apart. The road approaches the tracks from the south at an angle. The view of eastbound trains to traffic approaching the crossing from the south is—at 150 feet from the crossing one-quarter of a mile; at 100 feet therefrom, the same view.

To traffic approaching from the north—at 150 feet from the crossing, there is a view of eastbound trains of 750 feet; at 100 feet, of 1,175 feet.

The view of westbound trains to traffic approaching the crossing from the north is, at 150 feet, 1,250 feet; at 100 feet, 900 feet.

The view of westbound trains to persons approaching from the south, at 150 feet from the crossing, is 1,025 feet; at 100 feet is 925 feet. Curvature in the track curtails the view to some extent when approaching from the north; and, in approaching from the south, from which direction there is a substantial traffic, the view of eastbound trains, while uninterrupted, is impaired by the angle at which the railway tracks and the Bay Bridge road approach each other to intersect at the crossing in question. This only necessitates care on the part of highway travel in keeping a sharp view to the left—and over the shoulder the nearer the crossing is approached—for eastbound trains rounding the curve at the pumping station, about a quarter of a mile away, and the view of westbound trains is interrupted, though to no serious extent, by a brick house some distance from the highway and close to the curve the tracks make coming out of Belleville. On the whole, and having in company with the Assistant Chief Commissioner carefully examined the locality, I am of opinion that there is nothing in the shape of obscurity of view in approaching the crossing from either direction to render it inherently dangerous to highway traffic—where ordinary judgment—and reasonable care is used to avoid danger—with senses of sight and sound alive to the warning of approaching trains. If motorists approach the crossing at a high rate of speed, with curtains down, danger is incurred—not by the inherent danger of the crossing, or the approaches thereto—but by neglect to observe reasonable precautions in a place where danger lurks if that care is not observed—the same might be said of any crossing.

The Bay Bridge road is undoubtedly a heavily travelled highway. It is the only avenue of approach from Prince Edward county to Belleville and of egress from the city to that part of the country. Returns have been furnished by both railways of the highway traffic which may be summarized and analyzed as follows:—

CANADIAN NORTHERN RAILWAY

Return for 48 hours highway traffic, ending August 3, 1921.

Pedestrians	567	Average per hour	12
Vehicular (waggons) 790, Autos 1,431, Bicycles 259	2,480	" "	52
Trains, Pass. 21, Frt. 38	59	" "	1·22

When no trains — 12 hours.

Pedestrians	169	Average per hour,	14
Vehicular	771	" "	64

Balance — when there was traffic, 36 hours.

Pedestrians	348	Average per hour,	11·05
Vehicular	1,709	" "	47·47
Trains	59	" "	1·63

CANADIAN PACIFIC RAILWAY

Return for 48 hours — ending June 30, 1921.

Pedestrians	395	Average per hour,	8·23
Vehicular	1,006	" "	20·95
Trains	44	" "	·91

When no trains — 10 hours.

Pedestrians	40	Average per hour,	4
Vehicular	140	" "	14

When there were trains, but neither pedestrians nor vehicles — 5 hours.

When trains, but no pedestrians — 9 hours.
When trains, but no vechiles — 5 hours.

Balance of traffic — 38 hours — during which there were trains and pedestrians or vehicles, or both the latter

Pedestrians	355	Average per hour,	11·57
Vehicular	866	" "	22·78
Trains	44	" "	1·15

The difference shown by the two railways—in highway traffic—over the same crossing, is marked. The heavier traffic—that shown by the Canadian National—occurred on part of Monday, whole of Tuesday, and part of Wednesday, August 1, 2, and 3, while the much lighter traffic shown by the C.P.R. is for a part of Tuesday, the whole of Wednesday, and part of Thursday, June 28, 29, and 30. Whatever the reason for the difference the highway traffic as taken by the Canadian National should be taken as the normal highway traffic for the purpose of judging of the safety of the crossing, and what would be adequate protection therefor, and the train traffic to be taken into consideration must be the sum of the two railways, and the analysis would therefore be—approximately—

ON BOTH RAILWAYS.

Pedestrians	567	Average per hour,	12
Vehicular	2,460	" "	52
Trains	103	" "	2·14

I have, in this analysis, made no allowance for hours during which there are no trains, but distribute the highway traffic estimate over the whole forty-eight hours as to all railway traffic passing over the highway. The result shows a substantial traffic—although not abnormally so—by comparison—and having regard to the factors of approach and fairly good view.

The fact that only one accident is reported during a period of ten years is confirmatory of this—the traffic, although increasing with the growth of the use of the motor car, having been substantial during that time.

Those representing the Belleville Chamber of Commerce and the township of Ameliasburg strongly advocated the installation of gates as the most adequate protection at this crossing. With not unnatural zeal for the prevention of another such lamentable accident as occurred in November, 1916, whereby Mr. Oliver lost his life, it was urged by counsel that every form of protection—gates, watchmen and mechanical warnings should be installed. I quite understand the point of view which prompted this contention as, I have no doubt, counsel also understands that this crossing being but one of many hundreds which the same railways had to protect the question of cost is a factor not to be lost sight of in deciding, in each case, what is the most adequate protection for the particular conditions of danger at each crossing. The public has an important duty cast upon it as regards the exercise of ordinary care in places of danger. The highway traveller—not being under physical disability of loss or impairment of vision, or hearing, is fully alive to the danger attending every crossing of a highway by a railway. To such protection is adequately afforded by such methods of warning as will best appeal to those senses of vision and hearing, and awaken them to attention and alertness to avoid impending danger. The instinct of self preservation being thus appealed to and awakened, the hazard can safely be averted by care and caution of movement prompted by the warning. If these senses, ocular and auditory, being adequately and forcibly appealed to, do not have that effect, there is a failure of the human element, not as to protection of the crossing, but in the approaching traveller, and if a catastrophe occurs—it is chargeable to the neglect of the means of safety open to him—unless there is negligence of railway operation otherwise contributing to disaster and over-riding the caution thus invoked.

Protection by gates is intended to afford a temporary physical barrier to access to the right of way of the railway from the highway while a train is passing. Except in daylight (and at night by a stationary light) there is, in this form of protection, no appeal to the senses of sight *and* sound. Reckless impatient motorists have been known to drive through gates in their eagerness to beat an approaching train, or to avoid the delay involved in being held while a train is passing, resenting the physical obstacle in their pathway. The standard form of gates, being of light construction, makes this recklessness possible. With similar recklessness pedestrians crawl under the gates and fatal accidents have thereby resulted. So that while gates may in one condition of things be the more suitable form of protection it can hardly be said, I think, in the light of the growth of other forms of protection, to be the highest form of protection in every case, in the sense that any other form is less adequate or less suitable to the conditions to be dealt with and guarded against.

During war years the cost of material and labour incident to the installation of gates increased the capital cost of this form of protection about 100 per cent. The cost of maintenance has likewise increased in about the same proportion, so that the cost of installation is now approximately $4,000 and maintenance $4,000 annually. The cost of protection by day and night watchmen is, approximately $5,000 per annum. What the Board is concerned with in all

applications of this nature is securing the maximum protection suitable to the particular conditions in each case, with a due regard to the necessity of keeping down costs, which often have to be borne proportionately by municipalities as well as railways.

The crossing in question is at present protected by day and night watchmen, and, apparently, that form of protection has been satisfactory. It has continued since the accident in November, 1916, and no accident has occurred since then.

The Mayor of Belleville submitted a suggestion that this crossing should be closed by the diversion of the Bay Bridge road at Water street and carrying it under the railway tracks by a subway. This suggestion has received careful consideration and has been fully investigated and reported upon by the Chief Engineer of the Board. The subway would involve the raising of the bridges of both railways across the Moira river $3\frac{1}{2}$ feet and raising the tracks for a distance of 3,600 feet. The expense of such a work would be enormous if otherwise feasible, but a profile drawn by the City Engineer shows that in a subway of 11 feet 6 inches headroom there would be at high water 2 feet of water in such subway—the average high water being the bottom of the subway, and there would be no drainage. If the headroom was 14 feet instead of 11 feet six inches which might be necessary to provide for loads of hay, etc., the highway would be 3 feet under water at highest water level, and 1 foot under water at all times at average water level. If the tracks were not raised, with a 12-foot subway, at highest water record there would be 6 feet of water in the subway, and at average high water there would be four feet. If the subway had headroom of 14 feet, as would be desirable for the class of traffic carried over the road—and the tracks not being raised, the highest water record in the subway would be $7\frac{1}{2}$ feet above the bottom of the subway and the average high water would be 6 feet, making the proposition quite impracticable. The question of protection must therefore be considered as to the present location of the crossing.

What is now asked is that mechanical watchmen—that is—automatic bells and wig-wag signals, be authorized as protection in lieu of gates or the men now guarding the crossing day and night. The question—as I have said—is solely the adequacy of protection. If, in the circumstances, the substitution of the form of protection asked for by the railways will give sufficient protection, and at greatly reduced cost, the substitution ought to be made.

The superiority I see in the form of protection sought to be substituted and authorized lies in the fact that it is mechanically awake and operating whenever any train at any hour of the day, or night, enters the trackage area, bonded to one or other of the bells on each railway. Eliminating from consideration the contingency of the possible failure of the human element in protection by men, day and night, through illness, sleep, or any other imperative and compelling cause incident to nature (while not unmindful of its importance as often shown in the Board's records of accidents at crossings protected by watchmen) I would emphasize what occurred to me when making the inspection, and interviewing the watchman then on duty. His vision is limited by curvature of track—often by foggy or stormy weather—he receives no warning, except by sight or sound, of the approach of a train, and is not informed when trains—often of high speed—are delayed—he can only act and be of service as a protector of public safety when he sees a train approaching, and from his position he gets but short notice of that fact. At night and in cold or stormy weather he is in his shanty with the door closed. A delayed high speed train coming suddenly into his view—if—as his duty is, he is continuously on the watch, and alert, gives him but scant opportunity to jump up—get his disc in day time,

or his lamp at night—open his door and go out on the crossing. By this time the train would be right in or very close to the crossing according to its speed. Should it happen, as in the case of the one accident recorded at the crossing, that there is a train, approaching on each railway, from the same or opposite direction (if the watchman observes both trains), which side of the railway is he to stand to warn highway travel? Similar failure of the human element might occur in the case of a watchman in charge of gates. Instances of such are of record with the Board.

Contrasted with these important considerations is the fact that the automatic bell and wig-wag signal is mechanically alert the instant a train enters the area in which is is bonded—say 2,000 feet away from the crossing. So that in the one case, while a watchman is getting ready to flag, in the other the bell is ringing and the wig-wag is waving its imperative warning of danger. The loud alarm and waving of danger disc by day, and red light at night, are instantaneous with the arrival of a train at the distant point at which a watchman, if continuously alert, may first see it and prepare to warn its approach. In many cases the mechanical warning would be operating at the crossing before a watchman sighted an approaching train. Should the mechanism get out of order the engineer of the last train passing over the crossing reports the fact at the next telegraph station, slow orders go into force, and a watchman is immediately installed pending repairs. The devices are inspected and reported upon daily. This form of protection has proved very satisfactory after being in general and growing use for many years. It has been improved to a very high standard of efficiency.

After a careful study of the situation on the ground, and having regard to all the conditions existing at this crossing, I am of opinion that in the interests of public safety, and of economy as a minor and subsidiary consideration, the substitution ought to be authorized. I think that it is more suitable than any of the forms considered viz: gates and watchmen, to the conditions at this crossing.

The view to the east, when approaching the crossing from the south is partially obscured by some trees, of no particular value. These, it is said, are on the property of the city and should be removed, and the space kept clear. This work the city should be required to do at once to the satisfaction of the Board's Engineer, who will furnish a sketch of the work required.

At the northwest corner the Canadian Northern Railway should be required also, to the satisfaction of the Board's Engineer. to cut down to the level of the ground some shrub, about 15 feet high, and keep the space clear.

I would suggest that the city of Belleville (by itself, or in conjunction with the township authorities) instal on the Bay Bridge road, on each side of this crossing, at a distance of, say 300 feet, from the rail and at the right hand side of the Road—approaching the crossing from each direction of travel highway crossing warning signs of the standard approved by the Board—and light them at night. This can be obtained at small expense by application to the Chief Engineer of the Department of Highways, Toronto. The Board has no power, I think. to direct this desirable auxiliary protection, but I feel sure that the city and township will cheerfully act on this suggestion and have these signs installed as soon as possible. The city should keep them painted and lighted. There will be no order as to this.

With the view improved by the removal of the trees and scrub above mentioned by the city and the Canadian National Railways, respectively, and with the installation and maintenance in efficient working order by the railways, respectively, of two illuminated electric bells, with wig-wag signals, bonded to

the track of each railway, in both directions—one bell and signal on each railway (each railway to bear the cost of installation and maintenance of the bell and signal on its own line of railway), I think that the most adequate protection possible will be afforded under present conditions at this crossing.

The Order of the Board, No. 25932, dated March 10, 1917, and all subsequent Orders relating thereto, will be discharged when the substantive protection by bell and wig-wag signal thereby confirmed and allowed shall have been installed and in efficient operation to the satisfaction of an Engineer of the Board.

APPLICATION OF DEPARTMENT OF PUBLIC HIGHWAYS, PROVINCE OF ONTARIO, *re* APPROACH TO BRIDGE, G.T.R. AND C.P.R. COMPANIES

Judgment of Chief Commissioner, April 25, 1922, assented to by Assistant Chief Commissioner, Deputy Chief Commissioner, and Commissioners Boyce, Rutherford and Lawrence.

By Order of this Board No. 24418, dated the 8th day of November, 1915, the Grand Trunk Railway Company was ordered, the Canadian Pacific Railway Company consenting, to divert the Kingston road, in the townships of Brighton and Murray, about four miles west of the town of Trenton as set forth therein and according to plans on file with the Board, and, in the said order, it was directed that 20 per cent of the cost thereof, not exceeding $5,000, be paid out of the Railway Grade Crossing Fund. The work was completed, and, in the month of August, 1916, the Chief Engineer of this Board certified that the work had cost $31,579.95, that the charges were fair and just, and that the crossing in question was in existence on the 1st day of April, 1909, and, thereupon, the sum of $5,000 was paid out of the Grade Crossing Fund.

Since that date, the great increase of automobile traffic has made the road dangerous at both the northern and southern turns of the approach to the bridge where it crosses the Canadian Pacific and Grand Trunk Railways' tracks. At a hearing on the 7th day of March last, it was stated by Mr. Hogarth, the engineer of the Department of Public Highways of the province of Ontario, that the turns at both ends of the said bridge were dangerous to traffic, that a number of accidents had occurred and one man had died as a result thereof, that the province had rounded or flattened the curve on the southern end at a cost of $1.025.75, and asked that the province be reimbursed this amount by the two railway companies concerned. He also contended that the northern end should be treated in the same manner, excepting that it would have to be constructed of wood, as it was on the top of a high embankment, and Mr. Chisholm, for the Grand Trunk Railway Company, stated that $1.270 was about the cheapest price for which it could be done. These two amounts together would total $2.295.75.

The railway companies contended that they had constructed the diversion according to the order of the Board and to the satisfaction of its Chief Engineer, and, therefore, especially as both the turns in question are outside the railway and on the public highway, they should not be compelled to contribute anything further to the protection, and in this view I concur.

The question was raised at the hearing as to whether or not the Board would be justified, in view of the amendment to the Grade Crossing Fund Act as found in section 262 of the Railway Act, 1919, in increasing the contribution therefrom from 20 per cent to 25 per cent or to such an amount within the 25 per cent, not exceeding $15,000, as would be required for this particular work, and, on a careful examination of the said section, I am of the opinion that such

power rests in this Board. We have the right to expend certain moneys for the protection, safety, and convenience of the public in respect of highway crossings of railways at rail level in existence on the 1st day of April, 1909, as, in our judgment, may be proper, so long as the amount does not exceed 25 per cent of the cost of actual construction nor, in the total exceed the sum of $15,000, the only limitations being that no such money shall, in any one year, be applied to more than six crossings on any one railway in any one municipality or more than once in any one year to any one crossing. Twenty per cent, was paid in 1916; nothing has since been paid, the road prior to the construction of the bridge was a level crossing and was in existence before the 1st day of April, 1909; no amount has since been contributed out of the Grade Crossing Fund, neither has any money been contributed therefor during the present year, at least in the same municipality; therefore, it seems to me that, as a matter of law as well as justice, the Board would be justified in ordering a further contribution, so long as the total did not exceed 25 per cent of the cost of the work, nor $15,000 in the whole.

I find by computation that the total amount required for the improvements suggested would be $2,295.75, which would make a total of $7,295.75 and would amount to about 23·1 per cent of the total cost of the work, or well within the 25 per cent and the $15,000 limits, and I, therefore, think an Order should issue authorizing the payment to the Department of Highways for the province of Ontario of a sum not exceeding $2,295.75, partly in payment of the work already constructed and the balance for the further improvement of the northern end of the crossing; the work to be done according to plans approved by and to the satisfaction of the Chief Engineer of the Board upon whose certificate the said moneys shall be payable.

APPLICATION OF CITY OF HAMILTON *in re* SUBWAY UNDER GRAND TRUNK RAILWAY TRACKS, TOWNSHIP OF BARTON

Judgment of Assistant Chief Commissioner, May 15, 1922, concurred in by Chief Commissioner and Commissioners Boyce, Rutherford and Lawrence.

Under date of December 5, 1914, Order No. 22947 issued providing for the construction of a subway on Kenilworth avenue, Hamilton. Said order provided as to distribution of cost as follows:—

> 3. That the Grand Trunk bear and pay the extra cost of widening the proposed subway to accommodate any greater number of tracks than four it may desire to construct across the street; such extra cost to cover, not only the additional length of the retaining wall and deck surface, but also the expenditure for additional land or consequent damage, if any, incident to the extension. Provided that the total right of way of the Grand Trunk shall not in any event exceed one hundred feet.
>
> 4. That twenty per cent of the cost of constructing the said subway be paid out of the "Railway Grade Crossing Fund" (not exceeding $5,000): and that the remainder of the said cost be apportioned as follows: namely: seven and one-half (7½) per cent to be borne and paid by the township; thirty-two and one-half (32½) per cent by the Grand Trunk; twenty-five (25) per cent by the city; and thirty-five (35) per cent by the applicant company.

Subsequently a statement was rendered by the Hamilton Street Railway Company on March 18, 1919, showing expenditures by it of $29,749.06, and asking that payment should be made to it of the sum of $5,000 out of the Grade

Crossing Fund, this being the payment provided for in the order. This was recommended to the Department of Railways and Canals on September 11, 1919, and cheque was issued by the department under date of September 24, 1919.

The sum of $29,749.06 as submitted did not cover the total cost of the subway. Various other expenditures were necessitated in connection with the purchase of lands, etc. As, however, the contribution from the Grade Crossing Fund at the date the order was made was limited by statute to 20 per cent and not exceeding $5,000, it was obvious that for the purpose of calculating the amount payable the sum of $29,749.06 was adequate as a basis.

Under arrangements between the parties, the city was to see to the acquiring of options in connection with the acquisition of property necessary in connection with the construction of the subway. Lands were acquired and the portions not required for the work were disposed of. It was necessary, also, to pay consequential damages in connection with the construction of the said subway.

In the application now launched by the city of Hamilton, it is set out that the sale of lands was not finally completed until the township of Barton, one of the interested parties, had accepted and agreed to such sale by an agreement between the city and the township entered into on the 8th day of February, 1921.

In a written communication from the township of Barton, dated February 23, 1922, it is contended that it was not responsible for any delay in connection with the lands. It is set out that the township had nothing to do with the construction of the subway and the settling of matters in connection therewith; but these were left entirely with the city of Hamilton and the Hamilton Street Railway Company.

Nothing appears, however, to turn on the question who is responsible for the delay, and this matter need not be gone into.

The city of Hamilton furnishes a statement of cost which amounts, with the addition of the sum paid out of the Grade Crossing Fund, to $61,858.75. In this, it gives the net cost of the lands acquired at $13,390; and it also includes the sum of $6,717.95 interest charged at 5 per cent on the average principal advanced by the city of Hamilton in connection with the work that it did.

While the application is one for an order directing payment for the construction of the subway, that is to say, allocation of cost between the parties, the original order provides for the percentages of payment to be borne by each of the parties. What really is involved is the question of treating the item of $6,717.95—interest charges—as part of the cost. It is stated in the application of the city of Hamilton that the Hamilton Street Railway Company and the corporation of the township of Barton have not objected to the payment of interest. There is a statement on file from the Hamilton Street Railway Company saying it does not object to the payment of its proportion of cost of construction, with interest thereon. The only communication received from the township of Barton does not set out specifically its attitude in respect of interest, but it does say that it is desirous of having the matter adjusted so that the necessary debentures may be issued for the purpose of paying the township's proportion of the cost.

In the answer of the Grand Trunk, exception is taken to the payment of interest. In a letter dated January 30, 1922, it states that it has always been ready and willing to pay to the city of Hamilton its share of the cost, which it sets out as being at present, after various expenditures made, $10,166.80; but it contends that it should not be called upon to pay interest. It claims that the city should have called upon the parties interested for payment of their proportions of each land damage case upon it being closed, instead of waiting until all claims have been settled and disposed of before rendering accounts.

As already pointed out, the amount of interest—$6,717.95—is computed on the average principal concerned. The city is billing the other parties for 75 per cent of the interest; that is to say, it proposes to bear 25 per cent of the interest bill as entering into cost, said percentage being in accordance with the provisions provided for in the original order.

On consideration of the matter, I am of opinion that, on the facts involved, this item is a legitimate one and that it should be borne by the parties in the proportion provided for in paragraph 4 of the order; that is to say, in the following proportions: 7½ per cent by the township; 32½ per cent by the Grand Trunk; 25 per cent by the city, and 35 per cent by the applicant company.

There is a further phase of the matter, however, to consider. Exclusive of the item of interest, the cost as checked by the Board's Chief Engineer, after deducting an item of $50.40 in connection with expenses of delegation to Ottawa, is $55,090.40. This is the figure given as the cost of the work by the Grand Trunk. Deducting the further item of $5,000 from the Grade Crossing Fund, this gives the net cost to be met as $50,090.40. Deducting from the gross figures of the city of Hamilton the following items:—

(*a*) $5,000 from the Grade Crossing Fund;
(*b*) $50.40 as already explained; and
(*c*) $6,717.95 interest;

or a total of $11,786.35, there is a net cost of $50,090.40.

The Railway Act of 1919 amended the provisions in regard to the Grade Crossing Fund by providing that instead of the percentage of 20 per cent, with a $5,000 limitation hitherto applying, there should be 25 per cent, with a $15,000 limitation. The Railway Act of 1919 became effective on July 7, 1919.

As pointed out, the recommendation for the payment of $5,000 out of the Grade Crossing Fund did not go forward to the Department of Railways and Canals until September, 1919.

In *The application of the Department of Public Highways, Province of Ontario, for an Order directing the C.P.R. Co. to reconstruct bridge at overhead highway crossing in Lot 17, Con. 1, Tp. of Murray, near Smithfield, Ont., so it will carry a load of 12 tons.—Board's File 3701.32*—the following language was used by the Chief Commissioner:—

> "The question was raised at the hearing as to whether or not the Board would be justified, in view of the amendment to the Grade Crossing Fund Act as found in section 262 of the Railway Act, 1919, in increasing the contribution therefrom from 20 per cent to 25 per cent, or to such an amount within the 25 per cent, not exceeding $15,000, we would be required for this particular work, and, on a careful examination of the said section, I am of the opinion that such power rests in this Board. We have the right to expend certain monies for the protection, safety and convenience of the public in respect of highway crossings of railways at rail level in existence on the 1st day of April, 1909, as, in our judgment, may be proper, so long as the amount does not exceed 25 per cent of actual construction, nor, in the total, exceed the sum of $15,000, the only limitation being that no such money shall, in any one year be applied to more than six crossings on any one railway in any one municipality or more than once in any one year to any one crossing. Twenty per cent was paid in 1916; nothing has since been paid; the road prior to the construction of the bridge was a level crossing and was in existence before the first day of April, 1909; no amount has since been contributed out of the Grade Crossing Fund, neither has any money been contributed therefor during the present year, at least in the same municipality;

therefore, it seems to me that, as a matter of law as well as justice, the Board would be justified in ordering a further contribution, so long as the total did not exceed 25 per cent of the cost of the work, nor $15,000 in the whole."

What is herein involved falls within the reasoning of the foregoing decision. Reference may be made in this connection to the decision of the Board "*Re protection at 18th Street, Lachine, Que.*, as rendered April 28, 1914, and Order 21711 issued in connection therewith—Board's File 9437.121.

Order 22957 may be amended by providing that 25 per cent of the cost and not exceeding $15,000 shall be paid out of the Grade Crossing Fund. The total cost of the work, exclusive of interest and the additional deduction already referred to, approved by the Board's Chief Engineer, amounts to $55,090.40. 25 per cent of the cost apportioned to the Grade Crossing Fund would amount to $13,772.60. As $5,000 has already been paid out, there remains the additional sum of $8,772.60 which may be apportioned under the existing legislation. This should be apportioned in accordance with the percentages set out in the original Order, with the following result:—

Township of Barton... ...	7½%	of $8,772.60,	equals $	657.94
The Grand Trunk..	32½%	"	"	2,851.10
City of Hamilton..	25 %	"	"	2,193.15
Hamilton Street Railway..	35 %	"	"	3,070.41

Amending Order should go accordingly.

Re FREIGHT TOLLS, 1922

Judgment of the Board, June 30, 1922

Shortly after the promulgation of General Order No. 308 of this Board, being the order providing for the general rate increases known as the Thirty-five and Forty Per Cent Case, effective September 13, 1920, various bodies, among them the province of Manitoba, appealed to the Privy Council asking that the said order be rescinded for various reasons set forth by the appellants. That matter was heard by the Privy Council, and, on the 6th day of October, 1920, by P.C. No. 2434, His Excellency in Council dismissed the appeal, but, in doing so, stated as follows:—

"What constitutes a fair and reasonable rate should now be arrived at without reference to the requirements of the Canadian National System and your committee recommends that the order in this case be referred back to the Board to be corrected in its findings in such manner as to determine what are fair and reasonable rates without taking into account at all for the time the order shall be in effect, the requirements of the Canadian National System.

"Very strong representations were made at the argument on appeal to the effect that the order continued and indeed intensified an unjust discrimination in rates, it being claimed that higher freight rates prevail generally in Western Canada, that is west of Fort William, than prevail in Eastern Canada, that is east of Fort William. It was strongly urged that the reasons, whatever they may have been, for this differential no longer exist, and that as a matter of public policy the principle of equalization of rates East and West should now be recognized. On the other hand, it was urged that the competition arising out of lake and river transportation as well as out of lower competitive rates on Eastern United States lines compelled a somewhat lower scale in Eastern Canada than in Western Canada. Whether or not these reasons now obtain in any substantial degree is a question which requires minute and expert inves-

tigation such as can be best conducted by the Railway Commission itself and not by Your Excellency's advisers, but the committee is strongly impressed with the very great desirability of bringing about with the least possible delay equalization of Eastern and Western rates.

"The Committee of the Privy Council therefore further recommend that as conditions have probably changed materially in recent years tending more and more to make equalization practicable, an inquiry by the Board be directed to be held at the earliest date with a view to the establishment of rates meeting to the utmost extent possible the above requirement as to equalization."

The Board thereupon started an investigation, primarily to ascertain whether or not conditions had changed as suggested by the Order in Council and as to whether the difference in rates, if any, thus existing in a general way between Eastern Canada and Western Canada amounted to undue discrimination against Western Canada.

The first sittings was held at Ottawa on the 22nd day of November, 1920, when it was arranged that the Board would hold sittings in Western Canada in the early spring, and, in pursuance thereof, sittings were held in all the principal sittings of Western Canada in the month of April, 1921, again in the months of October and November, 1921, and the final argument took place in Ottawa in the months of February and March last.

Very shortly after arrangements were made for such hearings, application was made by representatives of the provinces of New Brunswick, Nova Scotia, and Prince Edward Island alleging that they were unfairly treated in that the arbitraries over Montreal, which they had enjoyed for many years prior to 1916, had been either abolished or materially increased, and asked that the old arbitraries be re-established.

Then the province of British Columbia applied for the elimination of the Mountain scale of rates as applied to that province, asking that the Prairie scale be extended through to the Pacific coast.

At a later date, application was made by the Lumber Association of Canada and allied interests for a general reduction in the rates upon lumber commodities.

There have also been applications before the Board by the Board of Trade of the city of Sault Ste. Marie and other business interests thereof for the extension of Schedule A rates from Sudbury to Sault Ste. Marie, and, finally, an application by the Commercial Travellers' Association of Canada alleging that the 20 per cent increase upon excess baggage provided for by General Order No. 308 should have been eliminated when passenger rates went back to normal on the 1st day of July, 1921, claiming that the excess baggage rate is based upon passenger rates, and therefore, when the passenger rates were reduced, the same principle should be applied to excess baggage.

In addition to this, we have had scores of applications from individuals, corporations, and municipalities asking for a reduction of rates either generally or upon the traffic in which they are respectively interested.

No reference is made herein to the application of the fruit growers of Nova Scotia and the potato growers of the Maritime Provinces for a reduction in the export rate on their commodities, as these rates were increased, not by General Order No. 308, but by General Order No. 303, effective August 26, 1920, and we understand the railway companies have already filed tariffs, effective July 1, reducing these rates by 10 per cent in accordance with the like reductions in the United States under the recent General Order of the Interstate Commerce Commission.

By the terms of General Order No. 308, all increases therein provided for cease to exist on the 1st day of July, 1922, because of the fact that the amend-

ment to section 325 of the Railway Act, 1919, which had the effect of postponing the coming into effect of the Crowsnest Pass legislation for three years, expires on the 6th day of July next. Shortly after Parliament opened in March last, the question of the further extension of the coming into operation of the Crowsnest Pass legislation was referred to a Special Committee of the House, which has reported, and legislation based thereon has been enacted, being Bill No. 206, which, in effect, provides for the suspension of the operation of the Crowsnest Pass legislation for a further period of one year upon all rates and schedules mentioned therein with the exception of grain and flour, the rates upon which latter products on and after the 6th day of July, 1922, shall be those provided for in the original legislation, being chapter 5 of the Statutes of 1897, and also providing that His Excellency the Governor General in Council may extend the provisions of the said Act for an additional term of one year, if, in their judgment, it is considered advisable to do so.

Comparison of Canadian and United States Freight Rates

It is considered advisable at this stage to give a comparison of the general rate structures of Canada at present as compared with the rate structures of the United States as they will be on and after the 1st day of July next, because, on account of the great similarity between railway operations and business conditions in the two countries as well as the very large volume of international traffic, it is well to know as nearly as possible the exact relationships of the rate structures of both countries.

Two or three years ago, and before the general increase in rates in the United States authorized by the Interstate Commerce Commission under ex parte 74, effective August 26, 1920, a careful comparison was made between the general level of freight rates in Canada and the United States which showed, having regard to all the controlling conditions, that the general level was slightly in favour of the Canadian shipper.

Freight rates in Canada were not generally or materially increased during the first four years of the war, but in 1918 and 1920 it was necessary, not only in Canada, but in other countries as well, to materially increase freight rates, so as to enable the privately owned railways, but not in full measure, to meet their advancing operating costs which had increased by leaps and bounds and in a manner entirely without precedent or parallel. The wage increases in 1918 and 1920, coupled with the increased cost of coal and other materials and supplies, resulted in such increases in railway operating costs that a substantial increase in freight rates was inevitable.

Notwithstanding that the employees of the Canadian railways were granted increases in wages equal to those in the United States and that increased costs and war conditions bore even more heavily upon railway conditions in Canada than in the United States, the increase in rates as authorized by this Board did not bear as heavily on the Canadian public as the increase authorized in the United States by the Interstate Commerce Commission, as will be clearly evidenced by the following.

These general increases, commonly known as the Forty Per Cent increases although in fact they averaged appreciably under that figure, became effective in the United States on the 26th day of August, 1920, and in Canada on the 13th day of September, 1920. There has been no general decrease in freight rates authorized in the United States since August 26, 1920, although there will be a general decrease of 10 per cent effective July 1, 1922. On the other hand, the increased rates effective September 13, 1920, in Canada, were subject to a general decrease of 5 per cent January 1, 1921, and the further general

decrease of 10 per cent December 1, 1921. The situation is illustrated below, taking in each case for simplicity of illustration, a rate of $1 per 100 pounds:—

CANADA

—	Rate prior to Sept. 13, 1920	Effective Sept. 13, 1920, Rate increased to	Effective Jan. 1, 1921, Rate decreased to	Effective Dec. 1, 1921, Rate decreased to
	$ cts.	$ cts.	$ cts.	$ cts.
East	1 00	1 40	1 35	1 25
West	1 00	1 35	1 30	1 20

INTERTERRITORIAL TRAFFIC

Percentage of increase in rates within territories east and west of Port Arthur applied to the east and west factors thereof respectively.

UNITED STATES

—	Rate prior to Aug. 26, 1920	Effective Aug. 26, 1920 Rate Increased to	Effective July 1, 1922 Rate Decreased to
	$ cts.	$ cts.	$ cts.
Eastern group	1 00	1 40	1 26
Western Group	1 00	1 35	1 21½
Southern and Mountain Pacific Groups	1 00	1 25	1 12½
Interterritorial Traffic	1 00	1 33⅓	1 20

Further, under this Board's General Order 308, September 9, 1920, the railways were prohibited from increasing rates on—

Crushed stone, sand, and gravel
Minimum class rate scale
Minimum charge per shipment
Switching, interswitching, milling-in-transit, diversion, reconsignment, stop-overs, demurrage, weighing, etc.

The increase allowed in rates on cordwood, slabs, edgings and mill refuse for use as fuel was limited to 10 per cent

The increases in coal rates was limited as follows:—

In rates 0 to 80 cents per ton—10 cents
In rates 80 to 150 " " —15 "
In rates over 150 " " —20 "

In the United States, under ex parte 74, July 29, 1920, there was no similar limitation with respect to rates on crushed stone, sand, gravel, and coal, and they were subject to the same percentage increases as authorized for other traffic; further, the percentage increase applicable in the group where the service is performed was made in the charges for switching, transit arrangements, weighing, diversion, reconsignment, lighterage, floatage, storage (not including track storage), and transfer, while no increases for those services were allowed in Canada.

The coal traffic is, of course, a very large and important movement, and the following illustrations show what the limitation in Canada meant as compared with the percentage increase in the United States. The increases allowed were:—

—	In Canada Effective Sept. 13, 1920	In United States Effective Aug. 26, 1920		
		Eastern Group	Western Group	Southern and Mtn-Pacific Group
		%	%	%
In rates 0 to 80c. ton	10c. per ton	40	35	25
" over 80 to 150c. ton	15c. "	40	35	25
" over 150c	20c "	40	35	25

To Illustrate::—

—	In United States			In Canada
	East	West	South and Mtn-Pacific	
	c.	c.	c.	c.
A rate of 80c. per ton became	112	108	100	90
" 150c. " "	210	203	188	165
" 300c. " "	420	405	375	320

Under the reduction in rates in the United States to become effective July 1, 1922, the situation will be—

Where rate prior to 1920 increase was—	In United States July 1, 1922			In Canada Aug. 1, 1922, on Anthracite	In Canada Aug. 1, 1922, on all other coal
	c.	c.	c.	c.	c.
80c. per ton now becomes	101	97	90	90	80
150 " "	189	182	169	165	150
300 " "	378	365	338	320	300

Subsequent to the general increase in 1920, there have been a large number of substantial reductions in Canada between various points on different commodities. In Canada, among the more important reductions made by the railways, were the grain rates from Fort William and Lake ports to the Atlantic seaboard and Eastern Canada; on live stock, on which a reduction of approximately 25 per cent was made in July, 1921, from the rates effective September, 1920; on hay in Eastern Canada; on lumber from the Pacific coast to eastern points; on wool and hides from western to eastern points, etc., etc.

In the United States a reduction in carload rates on grain, grain products, and hay in the Western and Mountain-Pacific groups became effective in January, 1922; rates on live stock in the same groups in excess of 50 cents per 100 pounds were reduced 20 per cent, but not below 50 cents, in October, 1921; and carload rates upon products of the farm, garden, orchard, and ranch were reduced 10 per cent in January, 1922. These are the only three instances where reductions were made covering the entire country, or the whole or any one or more rate groups, since the increases of 1920 became effective. These rates are not being further reduced in the United States July 1, 1922.

COMPARISON BETWEEN CANADIAN AND UNITED STATES PASSENGER FARES

Immediately prior to August 26, 1920, the standard passenger fare in the United States was 3 cents per mile.

On August 26, 1920, the Interstate Commerce Commission authorized an increase of 20 per cent in all passenger fares, with a standard of 3·6 cents per mile. An increase or surcharge of 50 per cent was allowed in sleeping and parlour car fares, an increase of 20 per cent in excess baggage rates, and 20 per cent increase in rates for the carriage of milk in baggage cars, all effective on the same date.

In Canada, prior to September 13, 1920, the standard passenger fare east of and including McLeod, Calgary, and (Wolf Creek) Thornton, Alberta, was 3·45 cents per mile; west of these points, 4 cents per mile.

By General Order of the Board No. 308, the passenger fares were increased by 20 per cent, subject to a maximum of 4 cents per mile. The order did not, therefore, increase passenger fares in British Columbia. An increase of 50 per cent was also allowed in parlour and sleeping car fares, and 20 per cent in excess baggage charge, but no increase was allowed in the rates for the carriage of milk in baggage cars.

On January 1, by the same order, the standard passenger rate east of McLeod, Calgary, and Thornton was reduced to 3·795 cents per mile, and on July 1, 1921, the standard passenger fare reverted to 3·45 cents per mile.

On December 1, 1921, the increase or surcharge in parlour and sleeping car fares was reduced to 25 per cent over those in effect prior to September 13, 1920.

Comparison of rates in Canada and in the United States at present is as follows:—

PASSENGER FARES

United States—		
All territory	Standard	3·6c. per miles
Canada—		
East of McLeod, Calgary and Thornton	Standard	3·45c. per mile
West of above territory	Standard	4c. per mile

SLEEPING AND PARLOR CAR FARES

United States	Surcharge of 50 per cent.
Canada	Surcharge of 25 per cent.

EXCESS BAGGAGE CHARGE

United States	20 per cent increase
Canada	20 per cent increase

MILK IN BAGGAGE CARS

United States	20 per cent increase
Canada	No increase

BASIC COMMODITY REDUCTIONS

At the hearing by the Special Committee of Parliament above referred to, both the Canadian Pacific Railway and the Canadian National Railways proposed that, outside of the question of the rates on grain from the Prairie Provinces to the head of the lakes, any decreases in freight rates in Canada should be confined to what they called "basic commodities," and, in the reference to the subject as found on page 47 of the Reports of the Special Committee, Mr. Beatty, President of the Canadian Pacific Railway Company, stated as follows:—

> "It was apparent, however, that in 1921 certain industries felt the depression much more severely than others, and it was the opinion of the railway executives both in Canada and the United States, an opinion

which, I think, is shared by the United States Government as expressed by the testimony of the Secretary of Commerce, Mr. Hoover, before the Interstate Commerce Commission, that inasmuch as the reductions were a matter of relief they should be first extended to those industries which most needed it. It was felt that more effective relief would be accorded in this way and that it would bear less heavily on the companies' revenues because of the exclusion from the reductions of numerous commodities in which the railway rate played a very small part. If the matter were one depending on the judgment of the railways, this method would be followed if the Railway Commission approved."

Mr. Beatty furnished the following list of basic commodities on which he thought reductions should be made: Grain and grain products, forest products, coal, building material, brick, cement, lime, plaster, potatoes, fertilizer, ores, wire rods, and scrap iron, to which, later on, were added pig-iron, blooms, and billets. The same list was afterwards approved by the Canadian National Railways.

In the Report of the Special Committee to the House above referred to, it was stated as follows:—

"basic commodities which may be afforded reductions should have the earliest possible consideration by the Board of Railway Commissioners."

While the recommendation of the committee is to be treated with respect, it is not binding in law upon this Board. It is arguable that in revising rates, the logical method to pursue is to redress antecedent necessary percentage increases by subsequent percentage decreases, thus minimizing the inequalities which the percentage increases had accentuated. As a matter of emergency action, however, revisions may be made on basic commodities in so far as is possible, consistently with other conditions now existing.

At a later sittings of the committee, both the Canadian Pacific and the Canadian National Railway Companies suggested that, in lieu of the coming into effect of the Crowsnest Pass Agreement, the following percentage reductions from present rates should be made upon these basic commodities, viz:—

Grain and grain products west of Fort William.....20%
Forest products.....20% East, and 16·66% West.
Coal, exclusive of anthracite coal and coal from Fort William.
Reductions specific.
Rates 0 to 80c. per ton—reductions 10c. per ton.
Over 80c. to $1.50 per ton—reductions 15c. per ton.
Over $1.50 per ton—reductions 20c. per ton.

Building material— Brick, cement, lime, and plaster.....	Western Lines 16·66%
Potatoes.....	
Fertilizers (other than chemicals).....	
Ores.....	
Pig iron.....	Eastern Lines 20%
Blooms.....	
Billets.....	
Wire rods.....	
Scrap iron.....	

This proposal was not adopted by either the committee or the House as proposed, but, as before stated, the rates on grain and flour from the western provinces to the head of the lakes were reduced to the original Crowsnest Pass basis, and the question now arises as to what percentage of reduction the Board can reasonably grant upon these specific commodities under the changed conditions above referred to.

At a hearing of the Special Committee on the 20th day of June instant, Mr. Lanigan, Freight Traffic Manager for the Canadian Pacific Railway Company, filed a statement showing what would be the reduction in the revenues of that company if the offer above referred to had been accepted, as follows:—

STATEMENT FILED BY MR. LANIGAN

CANADIAN PACIFIC RAILWAY

BASIC COMMODITIES

Grain and grain products	$	5,354,139
Forest products		1,765,147
Coal, exclusive of anthracite and coal from Fort William		476,619
Potatoes		115,358
Building material—brick, lime, cement, plaster		353,415
Fertilizers (other than chemical)		18,621
Pig iron, billets, blooms, wire rods, and scrap iron		132,466
Ores		122,704
	$	8,338,469
International and interstate traffic, 10 per cent		2,220,000
Grand total	$	10,558,469

This showed a total, not including reductions on international traffic, of $8,338,469, and, of this amount, $5,354,139 was the estimated reduction on grain. Taking this from the total reduction leaves a balance of $2,984,330 to be distributed among the other commodities. By the legislation hereinbefore referred to granting the Crowsnest Pass rates on grain as therein provided, according to the evidence of Mr. Beatty, as recorded on page 46 of the Reports of the Special Committee, assuming the grain traffic of the Canadian Pacific Railway to be the same as in 1921, the adoption of the Crowsnest rates would reduce their revenue by $7,159,537, which taken from the sum of $8,338,469 would leave $1,178,932 still available for reduction in rates on the above list of basic commodities, and the Board, after very careful investigation, has concluded that this would be represented by a reduction of 7½ per cent on the rates now in existence on these basic commodities less than the increases authorized by General Order No. 308, not, however, including therein any reductions heretofore made upon any of the said commodities upon domestic rates in Canada. This would leave increases on these commodities above the basis of September, 1920, at 12½ per cent in Western Canada and 17½ per cent in Eastern Canada.

This reduction of 7½ per cent, however, should not apply to coal other than anthracite, which was not increased on a percentage basis, but by flat rates as hereinbefore particularly described, and, therefore, it is felt that all the increases on coal other than anthracite granted by the Board by General Order No. 308 should cease and the rates go back to those immediately preceding the 13th day of September, 1920. This reduction, however, not to apply to coal from head of lakes ports westbound.

These reductions in the revenues of the Canadian Pacific Railway together with reductions in international rates and those hereinafter provided for will amount to more than eleven million dollars per year, and, considering that the net revenue for that company for the first five months of 1922 shows a falling-off of $2,393,000 as compared with the same months for 1921, the Board does not feel justified in going further in the direction of rate reductions.

The Canadian Pacific Railway figures are given above as this company is taken as the standard in rate discussions. An examination, however, of the Canadian National figures, while showing some improvements over 1921, shows a deficit in operating alone for the first four months of 1922 of $6,945,000, the

only bright spot in the whole situation being the Grand Trunk, which shows a gain of $2,591,000 for the first five months of 1922 as compared with the like period of 1921.

Maritime Provinces

With regard to rates between Maritime Province points and stations west of Montreal, the earliest record is from a traiff published by the Grand Trunk in 1874, naming rates from territory west of Montreal to St. John and Halifax, which applied only via Portland and steamer, and were exclusive of marine insurance. From Toronto, the rates in this tariff were:—

To		Classes 1	2	3	4
		Cents per 100 lbs.			
St. John, N.B	S.	100	84	67	50
	W.	106	89	71	51
Halifax, N.S	S.	100	84	67	50
	W.	110	93	74	55

S—Summer rate.
W—Winter rate.

These rates are simply given as a matter of historical information, and, of course, play no part in the question as at that time the all-rail route via Riviere du-Loup was not in existence.

Following the opening of the all-rail route, the rates between Maritime Province points and territory west of Montreal were constructed by the addition to the Montreal rate of a scale of arbitraries. The earliest record is a tarff of 1891-94, showing the following rates:—

		Classes 1	5	Arbitrary over Montreal 1	5
Toronto to	Montreal	50c.	25c.	....	....
"	St. John	80c.	40c.	30c.	15c.
"	Halifax	86c.	43c.	36c.	18c.

The record is not clear between 1894 and 1900 because the organization of this Board was only completed in 1904, and all tariffs then in effect were filed by the railways in that year. However, from 1900 to 1916, the arbitraries over Montreal were:—

To	Classes 1	5
St. John	20c.	10c.
Halifax	22c.	11c.

These arbitraries were, of course, advanced along with all other rates, arbitraries, or proportionals under the various subsequent rate changes, and the situation is shown in the following tabulation:—

	Arbitraries over Montreal St. John Classes 1	5	Halifax Classes 1	5
1891-1894	30	15	36	18
1900-1916	20	10	22	11
Dec. 1, 1916	24	12	26	13
Mar. 15, 1918	27½	14	30	15
Aug. 12, 1918	34	17½	37½	19
Sept. 13, 1920	47½	24½	52½	27
Jan. 1, 1921	45½	23½	50½	25½
Dec. 1, 1921	42½	21½	47	23½

The Toronto-St. John rate provides the key to the entire situation so far as relates to the freight rate structure between Maritime Province points and Ontario territory, as the rates to and from the other Ontario groups are related

to the Toronto rate, as fixed by the Board in the International Rates Order, and at the other end St. John is the pivotal point, the other groups bearing a fixed relation thereto. This system of rate making between the territories in question was in effect long before the creation of the Board and has since been carefully considered, particularly in the Eastern Rates Case in 1916, more extended reference to which is contained in the judgment in that case; it is an integral part of the whole class rate structure in Eastern Canada and could not be changed without involving disturbance of the entire rate fabric in this territory. As the class rate structure in Eastern Canada is not being disturbed at this time no change should be made in these arbitraries.

With reference to rates between Eastern Canada and points west of Fort William, a different situation is found to exist. Instead of territorial groupings in Ontario, as in the case of the rates between Ontario and the Maritime Provinces, the rates are blanketed to and from the whole territory Montreal to Windsor and Sarnia, inclusive, Sudbury to Niagara Falls, all intermediate points and all lateral lines. The reason is apparent—the water lines operate from Montreal, calling at intermediate points to Sarnia, at a common rate to the head of the lakes, while the westernmost points, such as Sarnia and Windsor, can reach St. Paul and thence western Canadian points with a short mileage via Chicago. From and to points east of Montreal it has been the practice to add an arbitrary to the Montreal rate. Montreal, through its geographical situation at the head of ocean navigation, and as the terminal of the western river and lake routes, is a natural breaking point. This group with its blanket rate takes in a large area—Montreal to Windsor, 555 miles—Montreal to Sudbury, 444 miles—Niagara Falls to Sudbury, 337 miles—Windsor to Sudbury, 480 miles. The distance from Montreal, the most easterly point, to Fort William, the head of lake navigation and the rate breaking terminal between Eastern and Western Canada, is 997 miles. From Windsor, the most westerly point, the distance is 1,032 miles. While, of course, the blanket rate covering this territory is justified by the governing conditions outline, points east of Montreal are put to an undue disadvantage in comparison by the addition to the Montreal rate of a scale of arbitraries that does not indicate an equitable continuation of a long haul rate.

Take, for instance, St. John, N.B., to Toronto, Ontario, a distance of 810 miles, split up St. John, N.B., to Montreal, 466 miles, and Montreal to Toronto 334 miles (C.P.R.), rate St. John to Toronto $1.25½ first class. Montreal to Toronto, 83 cents, difference east of Montreal 42½ cents per 100 pounds. Rate Montreal to Winnipeg, 1,417 miles, $2.67½, first class, rate St. John to Winnipeg, 1,885 miles, $3.08½, difference east of Montreal 41 cents. In other words, the difference over Montreal for the long haul to Winnipeg is practically the same for a haul of 1,885 miles as for a haul of 810 miles. This does not indicate the tapering of a through rate that a long haul justifies and is due to the application of a system of rate arbitraries.

The rate from Montreal to Winnipeg is made up on an arbitrary from Montreal to Fort William of $1,39½, first class, plus the regular first-class rate from Fort William to Winnipeg of $1.28. The regular first-class rate Montreal to Fort William is $1.99½. This shows that effect has been given to the tapering process on a long haul by the addition of a reduced rate arbitrary east of Fort William to the full rate beyond. This process should not stop at Montreal. The first-class arbitrary Montreal to Fort William of $1.39½ for 997 miles is represented on the Eastern Schedule A mileage scale by a distance 450 to 475 miles, $1.40, first class, or in other words, by a constructive mileage roughly equivalent to one-half the actual distance. The differences over Montreal should be blanketed by natural division, i.e., one group Montreal to Megantic,

Que., a second, Megantic to St. John, N.B., and the differences should not exceed those that would exist under Schedule A were the actual mileage east and south of Montreal treated in the same manner as that between Montreal and Fort William, thus the Megantic group would be 12 cents per 100 pounds, first class, and 6 cents fifth class, over the Montreal arbitrary of $1.39\frac{1}{2}$, while St. John would be 24 cents first class, and 12 cents fifth class, and Halifax 28 cents first class, and 14 cents fifth class, and other maritime groupings proportionately.

While this Board has no jurisdiction over the Intercolonial and Transcontinental railways, yet, if this principle were adopted on those roads, then, as Quebec, a distance of 1.352 miles from Winnipeg via the Transcontinental railway, takes the Montreal rate of $2.67\frac{1}{2}$, first class, Moncton would naturally take the same arbitrary (as it is to-day) over Quebec rates as St. John, N.B., takes over Montreal rates.

The St. John gateway provides via Canadian Pacific railway the short mileage to Montreal; from Halifax and other points this route and gateway should be maintained to shippers (with the option of Ste. Rosalie) so that the advantage of the short constructive mileage of the Canadian Pacific railway will continue to function as a rate factor.

These arbitraries over Montreal, first class, should be scaled down on the usual relation between classes 1 to 10, and where commodity rates are published will apply as maxima over Montreal at the class of the commodity so treated.

Application of Sault Ste. Marie Board of Trade

Schedule A was established as a result of the *International Rate Case.*

Application was made at the recent hearings, on behalf of the Sault Ste. Marie Board of Trade, asking that the northwestern boundary of the territory in which Schedule A applied should be extended to include the Soo branch to the city of Sault Ste. Marie. The representative of the Board of Trade stated that he understood that the limits were Parry Sound and North Bay.

In the discussion which took place, it was understood that while North Bay had been provided for in the original order, the territory had been extended to cover Sudbury. It appears from checking the rates that an error crept in and that Sudbury is not enjoying the full advantage of the Schedule A rates.

The Schedule A rates equalized certain conditions of water competition and American rail competition. Sault Ste. Marie, which is making the application, is a water competitive point. It appears from checking the rates that both Sudbury and Sault Ste. Marie have to a modified extent been given the advantage of the Schedule A rates. What has been done has been to give the advantage of the Schedule A rates to North Bay. This is something available under the tariff. Then for the mileage beyond North Bay to Sudbury and to Sault Ste. Marie there has been given an arbitrary rate for the additional mileage, which is less than the full Schedule A rates would be for the same mileage; that is to say, what is done is not to give Schedule A rates on the through mileage but Schedule A rates on the mileage to North Bay and less than Schedule A rates on the mileage beyond.

As already stated, the reduction is arbitrary. The tariffs do not disclose any exact percentage reduction.

On consideration of the evidence submitted by the applicant and in view of the fact that the Schedule A territory has been extended to cover Sault Ste. Marie in the way above indicated, it would appear to be justifiable to make provision for Schedule A rates applying as requested, but basing this on the through mileage.

A similar adjustment should be made to Sudbury.

Such additional mileage on the Schedule A scale as is necessary to cover the extension should be provided for.

Mountain Rates—British Columbia

The Judgment in the *Western Rate Case* set out that initial construction and railway operations through the mountains were much more expensive than operation on the prairies. It was set out that "some differences in rates at the present time are not only justifiable but necessary. It is not contended, on behalf of British Columbia, that operation through the mountains is not much more expensive." The judgment held that these higher costs could not be "smeared" over the system so that British Columbia would have the same rates as those applying to the Prairie Provinces.

In the present application, various additional contentions were advanced. Emphasis was laid upon the implications alleged to arise from the steps culminating in Confederation.

What is involved in this is somewhat analogous to what was involved in *Attorney-General for British Columbia vs. Can. Pac. Ry. Co., 8 Can. Ry. Cas. 346*, in which it was held that under the terms of the contract with the Dominion Government for the construction of the Canadian Pacific Railway, dated October 21, 1880, Schedule to 44 Victoria, Chapter 1, the only party who could make any complaint as to their non-observance was the Government of Canada.

Reference was also made to the alleged better climatic conditions existing in British Columbia as affects operating; and there was also set out the conditions which it was contended should be considered as a result of the construction of the Canadian Northern Pacific.

It does not appear necessary to develop the question as to what implications, if any, are to be deduced from the finding regarding the Canadian National, as set out in the Privy Council Order following the appeal from the Board's decision in the so-called "Forty Per Cent Case." It would appear that the opinion of the late Chief Commissioner Mabee, which was quoted with approval in the Western Rate Case by the then Chief Commissioner, Sir Henry Drayton, is applicable here. The opinion in question is: "The question for us to decide is what rates are fair irrespective of how much any company is worth or is not worth."

In view of what is said herein as to the controlling effect of water and United States rail competition in the portion of Canada east of the Great Lakes, the rates there existing cannot be taken as the necessary proper measure of what the British Columbia rate should be.

Under the *Western Rate Case*, a basis of 1½ for 1 was adopted on the Pacific standard tariff. This, with the appropriate mileage grouping in the tariffs applicable, worked out on the average 30 per cent over the Prairie standard. From 80 to 85 per cent of the British Columbia traffic is carried on commodity rates. In so far as these commodity rates are based on percentages of the standard rates, the effects of the standard rate adjustments are carried down, although in much less degree. In the movement on commodity rates of the staples of British Columbia the effect of the Mountain scale is in many cases not apparent.

It is admitted by counsel for the province of British Columbia that the costs are still higher on the British Columbia division than on the Prairie divisions. He refers, however, to costs east of the Great Lakes as supporting

his contentions. As set out herein, it does not appear that deductions from the experience of other sections whose rates are dominated by water and United States railway competition can be controlling here.

Following the reasoning of the *Western Rate Case*, a revision in the Mountain scale as provided for in the Pacific standard is justifiable. On careful consideration, the reduction hereinafter provided for should be made; the Board does not feel justified in going any further.

The rates of the new "Pacific" standard mileage tariff are to be constructed by applying to the "Prairie" standard tariff for distances up to and including 750 miles (the approximate maximum haul in British Columbia) $1\frac{1}{4}$ miles for 1 mile, and to the rates so produced the 25-mile differences of the "Prairie" standard scale to be added for each 25 miles over 750 miles, so as to produce standard through rates for part Mountain and part Prairie hauls.

The distributing rates from recognized mainland distributing centres in British Columbia other than Vancouver and New Westminster, as well as the tariff between Vancouver and New Westminster and points east thereof, will be constructed from the new standard tariff in the same manner as at present, as prescribed in General Order No. 125, May 30, 1914, and Order No. 31648 of October 11, 1921, respectively.

All commodity mileage rates applying locally between stations in Pacific territory, also on interchange traffic between Pacific and Prairie territory, to be reduced so as to preserve the same relationship to the new standard mileage scale as they now bear to the present scale, such rates, of course, to be the maxima with regard to special commodity rates specifically published.

Rates on grain and grain products from "Prairie" points to stations in British Columbia, for domestic consumption, where now based on "Prairie" mileage scale, but using constructive mileage of $1\frac{1}{2}$ miles for 1 mile for the mountain haul, to be reduced by figuring on $1\frac{1}{4}$ miles for 1 mile for the mountain haul.

Lumber Rates

As the rates on lumber and forest products, including pulpwood, logs, poles, posts, etc., are to be reduced by $7\frac{1}{2}$ per cent as hereinbefore described, it will be unnecessary to further consider the application of the Canadian Lumbermen's Association.

Excess Baggage

By General Order No. 308, passenger fares were increased by 20 per cent up to and including the 31st day of December, 1920, and by 10 per cent from that date until the 1st day of July, 1921, when the passenger rates reverted to the standard of 3·45 cents per mile, and, by the same order, the rates on excess baggage were increased by 20 per cent. As the rates on excess baggage are built upon a percentage of the passenger fares, it is only logical that, when the passenger fares are reduced, excess baggage should bear the same reduction, and, therefore, it is considered that the rates on excess baggage should go back to the basis prior to September 13, 1920.

Equalization Between the Prairie Provinces and Eastern Canada

In the reference to the Board by the Governor in Council in the appeal in the so-called "Forty Per Cent Case," the Board's attention was directed to the advisability of conducting an investigation to see to what extent existing disparities of rates between different rate sections could be redressed. The reference

was not based on the idea that the disparities were wrong *per se*. Under the Railway Act, not all discriminations or preferences are forbidden. As was developed with a plentitude of example, in the *Western Rate Case*, what is forbidden under the discrimination sections are preferences which are undue or discriminations which are unjust. The burden, therefore, was on the Board in the investigations made to ascertain whether under existing conditions the discriminations in rates existing were discriminations which fell under the inhibitions of the Railway Act.

Counsel for the Provinces of Manitoba and Saskatchewan very frankly and fairly stated, ".. .. I have never at any time said otherwise than that I did not think that of necessity the rate for the same distance for the same commodity should necessarily be the same East as West or West as East. In my opinion, the equal treatment of unequal things is just as bad as the unequal treatment of equal things. I have never advanced, either in argument before this Board or before any other tribunal, or by evidence adduced, anything which would lend itself to the suggestion that I have advocated that any particular rate must of necessity be the same for any particular distance East as West. There are many other factors besides mere distance." Counsel continued that longer hauls were important in the West; shorter hauls in the East.

Counsel in thus defining the issue emphasized that conditions peculiar to each of the rate areas compared must be given weight in determing whether the low rate existing for a given distance in one section is to be taken as the criterion of discrimination in another. In so presenting the matter, he was but following the position so clearly laid down by the late Chief Commissioner Killam in the early decisions of the Board, namely, that mere mileage comparisons do not afford criteria of discrimination, but that all facts material must be given weight. In other words, under the body of regulation which is developed under the Railway Act, mileage is not a rigid yardstick of discrimination; discrimination, in the sense in which it is forbiden by the Railway Act, is a matter of fact to be determined by the Board.

In the course of argument, counsel for the provinces of Manitoba and Saskatchewan emphasized the position that under his view of existing conditions there should be a reduction in grain rates, and, thereafter, there should be reductions on basic commodities, e.g., cattle, lumber, coal and the instruments of production such as agricultural implements.

A further submission was made that articles in Classes 5 to 10, not now covered by commodity rates, should be afforded a reduction. This practically means narrowing down to Classes 5 and 7, as Class 9, which is concerned with cattle, is unimportant from a rate standpoint, cattle moving on a commodity rate. Coal, lumber, and grain also move on commodity rates.

As already pointed out, a reduction, under statute, has been made in the rates on grain and flour. Through the Board's instrumentality, a reduction on cattle was made. The articles of lumber and coal are dealt with specifically in the present judgment.

Reference has been made to the greater earning power of Western lines, it being contended there is a greater earning power both gross and net. At the same time, the larger mileage in the West, specific reference being made to the Canadian Pacific mileage, may be noted.

The fundamental matter, however, in the present application, so far as the position of Manitoba and Saskatchewan is concerned, is in terms of the reference to the Board by the Governor in Council, to ascertain whether there is an unjustifiable discrimination existing as between the rates applicable in the provinces of Manitoba and Saskatchewan and the rates applicable east of the Lakes.

Alberta was not represented by counsel; but what may be found in regard to the justification or otherwise of the difference between rates in Manitoba and Saskatchewan as compared with the section east of the Lakes will have application to the situation in Alberta as well. While it is set out, as above, that Alberta was not represented by counsel, it may be said that counsel for the province of British Columbia dealt with certain phases of the situation concerned in his application as if the interests of Alberta and British Columbia were more or less identical. At the same time, it is not set out in the record by any submission from the province of Alberta that counsel for British Columbia was representing Alberta.

In dealing with the situation as between Manitoba and Saskatchewan on the one hand and the section east of the Lakes on the other, the very fair and candid statement made by counsel for the provinces of Manitoba and Sackatchewan, which was in substance that mileage is not the fundamental criterion of discrimination, must be given weight. It is necessary to look to the particular facts affecting the rate adjustments in the particular sections.

The *Western Rates* judgment, in dealing with the establishment of special class rates from Lake Superior and Pacific Coast termini, stated, *inter alia,* that as to lake termini between Port Arthur, Fort William and Westfort and points west thereof, there should apply to and from points east of Winnipeg the Prairie territory town tariff basis, subject to the rates to Winnipeg and St. Boniface as maximum; that to and from Winnipeg and St. Boniface the rates should be no greater than those of the Prairie standard tariff for 290 miles; that to and from points beyond Winnipeg within Prairie territory the maximum first-class rates were to be those of the Prairie standard tariff for the through-mileage, made up of actual distance beyond Winnipeg added to the above-mentioned assumed mileage of 290 miles east of Winnipeg.

The Judgment in the *Western Rates Case* sets out how this constructive mileage of 290 miles east of Winnipeg on the movement from the lake termini was arrived at. The essence of the arrangement is that the mileage from the Lake to Winnipeg being 424 miles, there is a concession of 134 miles on the movement concerned. This was built up on rate conditions which had developed in the West. There is not the same arrangement existing on a movement from the East to Fort William.

Here, again, the particular facts of the section in which the rate adjustment is made must be considered, and it does not follow that the arrangement herein referred to would be a criterion of discrimination in connection with a complaint as to a different rate adjustment east of the Lakes.

Having in mind the special conditions of the territory west of the Lakes, a special rate adjustment has been made on the very important commodity of agricultural implements. In the shipment of these from points in Eastern Canada, e.g., Hamilton to Montreal, inclusive, the rate to western points is on the Chicago basis, that is, the rate from Chicago to said points applies. In view of the system whereby the rates east of Montreal are built up on differences over that point the effect of this rate reduction is carried further east in so far as originating points shipping to the Prairie Provinces are concerned. This again, is based upon special traffic conditions, and would not necessarily afford a criterion of unjust discrimination in respect of a different treatment in the East in regard to similar mileages concerned.

In the presentation of counsel for the provinces of Manitoba and Saskatchewan, reference was made to the difference in classification basis. In the East, the 5th-class rate is one-half of 1st. In the West, the 4th-class rate is one-half of 1st. Reference was made to this as showing, *inter alia*, a considerable

difference as affecting the important 5th class; and since the distributing rates are built up by taking a percentage off, it was contended that this difference was carried down into the distributing rates.

In general, the apparent conclusion counsel had in mind was that the Board should construct a basis of its own.

As especial reference was made to the 5th class, some comments in this connection are necessary. In Eastern Canada, the 5th class is 50 per cent below the 1st; in Western Canada it is 55 per cent. It may be remarked in passing that in Eastern Canada the 4th class is 37½ per cent below the 1st-class rate, while in Western Canada it is 50 per cent below the 1st-class rate. Putting it in another way, if the 5th-class rate is taken and scaling is made up to the 1st, then in Eastern Canada the 4th-class rate is 25 per cent above the 5th-class rate, while in Western Canada it is 10 per cent above the 5th-class rate.

It was suggested by counsel that the Board should construct a standard of its own, taking the foundation of the Western American Classification.

If the Western scale were constructed with the relationship between the classes in conformity with the Eastern scale, starting with the 1st-class rating in the Western scale and scaling down the other classes under the Eastern plan, this would result in a large increase in the rates for all classes below the 1st.

If one-half of the 1st class in the West were taken and put in the position of one-half of the 1st class in the East, this would mean taking the present Western 4th class, which is one-half of 1st, and putting it in the position of the Eastern 5th class, which is one-half of 1st, and then scaling the other classes on the Eastern plan, the result of this would be to produce the same result as the other method just mentioned.

The question of the standardization of the Western rate scales is dealt with in the judgment of the *Western Rates Case*, in section 19, under the heading of "Standardization." Reference may be made to this as bearing on the history of the development. The citation set out in the judgment, in the report of the Board's Chief Traffic Officer, the late Mr. Hardwell, emphasizes the advances which would take place if the Western rate scale were standardized on the Eastern Canada basis.

Bound up to the difference in classification basis is the difference in one of the fundamental rules of the Classification, namely, that concerned with the mixing privilege. As a result of a compromise arising out of the strong position taken by the Western jobbers, the more liberal mixing rule of the East is not applicable west of Fort William. West of Fort William, the mixing rule is limited by the trade list principle, and in general, favour is shown, judging from resolutions filed with this Board by representative trade bodies in the Prairie Provinces, to limiting the mixing rule, to articles normally moving in carload quantities. This, again, emphasizes a difference in traffic conditions as between the East and the West.

At a meeting held in Winnipeg on April 26, 1921, at which there were present representatives of the Boards of Trade of Brandon, Calgary, Edmonton, Lethbridge, Montreal, Moose Jaw, Regina, Toronto, Vancouver, Winnipeg and the Saskatoon Chamber of Commerce, as well as representatives of the Canadian Manufacturers' Association, there was under discussion the question of a change from the trade list principle in the Classification; and the following resolution was passed:—

> 1. It was decided that in the best interests of both Eastern and Western Canada rule 2 and the trade lists of the present Classification should be continued and substituted for proposed rule 10 of the Canadian Freight Classification No. 17.

2. It was also decided that a Classification Committee representing Western Boards of Trade or other business organizations and railways be named to consult with the present Eastern Classification Committee in connection with the provisions of the new Classification.

3. It was further the opinion of the meeting that there should be no disturbance at the present time in the present class rate relationships now existing in Eastern and Western Canada as a result of the finding of the Board of Railway Commissioners in the inquiries conducted in the Eastern and Western Rate Cases and orders issued in relation thereto, and subsequent orders.

4. The chairman of this meeting was instructed to submit a copy of this resolution to the Board of Railway Commissioners to-morrow.

It may be noted that the Saskatoon Chamber of Commerce dissented from paragraph 3, and the representative of the Vancouver Board of Trade stated he could not vote in favour of the resolution but would submit it to his Board of Trade.

It thus appears on the records before the Board that in regard to classification arrangements there are differences of traffic interest between the Prairie Provinces and the territory east of the Great Lakes. It appears that commercial conditions in the West emphasize a preponderating movement of traffic in carlots and, consequently, any standardization which would effect an increase on the distinctly carload classes would bring about a serious dislocation of business. Here, again, the situation is that differing conditions have brought about different practices and rules, and the rule or practice existing in one section and giving a different treatment is not a necessary measure of discrimination in another section.

Counsel for the provinces of Manitoba and Saskatchewan stated that there was a difference in average hauls east and west, and while stating that in various cases the shorter hauls were at much lower rates in the West than in the East, he contended that the important matter in the West was the long haul. It is a legitimate deduction from this to say that the level of the rate in the East being, according to counsel's submission, concerned with an average short haul, affords no necessary criterion of what the rate should be on longer haul traffic in the West.

It was testified by the Canadian Pacific Railway Company that its rates on building materials in the prairies were lower than in Eastern Canada, there having been taken into consideration the necessities in connection with supplying shelter.

The examples given are illustrative of the fact that differing commercial conditions have brought about differing traffic rates and arrangements, and simply attract attention to the position that it is not in the abstract rates but in the concrete conditions that the measure of determining whether the rate structure is discriminatory or otherwise must be found.

In the *Western Rate* Judgment, after a very careful analysis of the rulings of the Board in the matter of discrimination and searching analysis of traffic conditions, the Board found that water competition, generally speaking, was effective in the East. It found that, in the main, the rate structure of Eastern Canada was justified on the basis of water and rail competition; and the following language was used:—

> "For the reasons stated, I am of the opinion that while discrimination exists between the rates charged east and west of Port Arthur, the discrimination is justified under the Railway Act and the decisions of the Board already referred to. It is neither undue nor unjust."

See section 9 of the Judgment in question.

In the hearings before the Board in the present case, considerable attention was devoted to the matter of water competition in its bearing upon rates in Eastern Canada. Counsel for the provinces of Manitoba and Saskatchewan was disposed to minimize the importance of this water competition. It is true that on account of tonnage readjustments arising out of the war and the incidents thereof there have been fluctuations in the water-borne tonnage, yet this does not detract from the fact that from the ocean well into the middle of the continent there is a water highway on which vessels are free to go and come, not tied down to any particular route, and not involving the large fixed investments which are essential to railway transportation. It is also true that adjacent to this section of Canada are the rail lines of the United States which are equally subject to the effect of this water-borne traffic; and it does not appear that any vital change in this respect has taken place since the date of the decision in the Western Rate Case.

While as a consequence, naturally to be expected, from difference of conditions, many prairie rates have a spread over the eastern rates, the course of the decisions of the Board, including the present decision, has been to narow this spread wherever possible.

The matter has been put in a succinct way in the evidence before the Special Committee appointed to consider railway transportation costs. Counsel who appeared before the Board for the provinces of Manitoba and Saskatchewan represented these provinces, as well as Alberta, before the committee. At page 300 of his evidence, in dealing with the different scales, he said:—

> "First, there is the Eastern scale which, as I will develop later, is held down by maximums created by water competition, potential and otherwise, and by American rail competition."

Again, at page 301, in summarizing the provisions of the Railway Act in regard to discrimination, he used the following language:—

> "The railways, when we replied that we were discriminated against in respect of Eastern rates, answered, and the Board has held it to be a good answer. True, there is a disparity, a discrimination, and I propose to give you the four or five decisions in all the rate cases to that effect, that there is discrimination, a disparity against us, but the railways have satisfied the onus of showing that it is not unjust or undue, because railway rates in the east are held down by water competition and American rail competition, something they cannot control, and therefore that excuses that discrimination."

The Board holds that the difference in rates as between the Prairie Provinces and Eastern Canada as referred to do not constitute an unjust discrimination or undue preference.

Conclusions

All steam railways in Canada under the jurisdiction of this Board shall file tariffs, effective the first day of August next, providing for the following reductions, viz:—

(*a*) On the articles, other than grain and flour, hereinbefore referred to as basic commodities, namely,—forest products, building material, brick, cement, lime, and plaster, potatoes, fertilizers (other than chemicals), ores, pig-iron, blooms, billets, wire rods, and scrap iron, a decrease of 7½ per cent from the increase given by General Order No. 308 and any other orders affecting the said commodities issued since that date, which will hereafter leave the increase granted by said General Order No. 308, in Western Canada, at 12½ per cent and,

in Eastern Canada, at 17½ per cent; the term " forest products " as set out in such list is to be defined as follows:—

In the territory east of Port Arthur, Ontario, in accordance with the list of commodities shown in C.P.R. tariff C.R.C. No. E-3818 as taking rate basis " A "; in the tariffs from British Columbia to prairie points on the commodities taking Group A and Group B rates, as shown in C.P.R. tariff C.R.C. No. W-2573; and from stations in Alberta and British Columbia to stations in Eastern Canada, in accordance with the Canadian Freight Association tariff C.R.C. No. 30; also on pulpwood west of Port Arthur, Ontario.

In cases where reductions heretofore granted or ordered upon these commodities have not amounted to 7½ per cent as above described, they shall be reduced to that point, and where they exceed 7½ per cent, they will remain as they are at present.

These reductions are made upon the same basis in both Eastern and Western Canada with the object of preserving the same spread between these territories as was provided by General Order No. 308.

(*b*) On coal, other than anthracite and coal from the head of the lakes westward, all increases provided for by General Order No. 308 to be rescinded;

(*c*) On commodities moving under class and commodity rates between points east of Montreal and points west of Port Arthur and Fort William, the establishment of arbitraries as provided for herein;

(*d*) On the territory between North Bay and Sault Ste. Marie, Schedule A rates to be applied;

(*e*) Mountain rates to be reduced to the basis provided for herein; and

(*f*) The increase in excess baggage rates, as provided for in General Order No. 308, to be eliminated.

With the above exceptions, all tariffs now in effect, either under the provisions of General Order No. 308, as amended by General Order No. 350, or as the result of voluntary action by the carriers, shall remain in force.

GENERAL ORDER No. 366

In the matter of freight tolls—1922

File Nos. 30531, 30685, 30686, and 30686.2

FRIDAY, the 30th day of June, A.D. 1922.

Hon. F. B. CARVELL, K.C., *Chief Commissioner.*
S. J. MCLEAN, *Assistant Chief Commissioner.*
A. C. BOYCE, K.C., *Commissioner.*
J. G. RUTHERFORD, C.M.G., *Commissioner.*
C. LAWRENCE, *Commissioner.*

Upon hearing the matter at the sittings of the Board held in Vancouver, April 7 and October 17, 18, 19, and 20; Victoria, April 11; Kamloops, October 26; Nelson, April 15 and October 29; Calgary, April 18 and October 31; Edmonton, April 20 and November 2; Saskatoon, April 21 and November 3; Regina, April 22 and November 4; Brandon, April 23; and Winnipeg, April 25 and November 8 respectively, 1921; and in Halifax, January 17; St. John, January 19; and Ottawa, February 15, 16, 17, 20, 21, and 22, and March 13 to 30, respectively, 1922—in the presence of counsel for and representatives of the provinces of Nova Scotia, New Brunswick, Manitoba, Saskatchewan, and British Columbia, the Maritime Board of Trade, the Boards of Trade of Halifax, Montreal, Toronto, Sault Ste. Marie, Winnipeg, Calgary, Nelson, Lethbridge, Edmonton, the Cana-

dian Manufacturers' Association, the Railway Association of Canada, Canadian Lumbermen's Association, Limited, Canadian Retail Coal Dealers' Association, Dominion Millers' Association, United Farmers of Manitoba, United Farmers of Alberta, United Grain Growers, Saskatchewan Grain Growers' Association, Wholesalers' Association of Calgary, Western Canada Live Stock Union, Canadian Aberdeen-Angus Association, Amherst Foundry, J. W. Cunningham Company, Stetson Cutler & Company, Saskatchewan Co-operative Elevator Company, W. Malcolm McKay, Limited, Northern Foundry and Machine Company, the Canadian Pacific and Grand Trunk Railway Companies, and the Canadian National Railways, and what was alleged at the hearings—judgment, dated June 30, 1922, was delivered by the Board, a certified copy of the said judgment being attached hereto marked "A",—

The Board orders: That all railway companies operating steam railways, subject to the jurisdiction of the Board, be, and they are hereby, required forthwith to file tariffs giving effect to the rates prescribed and authorized by the said judgment, which is hereby made part of this order; the effective date of the said rates to be August 1, 1922.

F. B. CARVELL,
Chief Commissioner.

IN *re* AVENUE ROAD SUBWAY, TORONTO, C.P.R.

Judgment of Chief Commissioner, August 30, 1922, assented to by Assistant Chief Commissioner in separate Judgment, September 8, 1922, concurred in by Commissioner Boyce and by Commissioner Rutherford in part by separate Judgment October 3, 1922.

This case arises out of the North Toronto Grade Separation, carried on some years ago under orders of this Board. Most of the matters were settled by agreement, and, finally, on the 26th day of December, 1919, by Order No. 29160, the Board ordered that the Toronto Street Railway Company pay to the Canadian Pacific Railway Company the sum of $13,807.01, with interest until paid, and reserved that portion of the account headed "Land and damages" for settlement between the parties, or, in the event of their failure, for further order of the Board.

As they failed to agree among themselves, the Board instructed Mr. George A. Mountain, its Chief Engineer, to investigate and report, and, after several conferences with representatives of the interested parties, he did so on the 11th day of March, 1922, as follows:—

"March 11, 1922.

"A. D. CARTWRIGHT, Esq.,
"Secretary, B.R.C.,
"Ottawa, Ont.

"DEAR SIR,—

File 12021·70, North Toronto Grade Separation. Land damages at Avenue Road between Canadian Pacific Railway and Toronto Railway Company.

"This matter was referred to me after I had settled with the parties the question of the cost of the subway in so far as the construction was concerned. Then the matter was to be further taken up as regards land damages. The last meeting was held in Toronto on March 4, 1922. Mr. C. H. Rust represented the Toronto Railway Company and Col. R. Ripley, the Canadian Pacific Railway. We thoroughly discussed all the items in dispute and I beg to make the following report:—

"I will take the items in order as shown on the statement submitted by the Canadian Pacific Railway.

"1st. Purchase of houses Nos. 216 and 218 required for diversion of Marlborough Place.. .. .. $16,287 00

"This was necessitated by reason of the construction of the subway and I consider it fair and reasonable.

"2nd. Blake and Redden, London, England, Costs *re* opposing Toronto Railway Co. Appeal.. .. .. .. 407 86

"This was in connection with some legal matters and Mr. Flintoft agreed not to ask me to report on it, as he would arrange a settlement of it with Mr. McCarthy.

"3rd. H. H. Williams services negotiating *re* damages.. .. .. 200 00

"I consider this item fair and just.

"4th. H. H. Williams' services negotiating *re* damages.. .. .. 200 00

"I consider this fair and just.

5th. Damages sustained *re* Canadian Pacific Railway houses on Avenue Road at northwest corner Avenue Road and MacPherson Avenue.. .. .. 5,962 50

"This is in connection with a row of houses which were no doubt damaged by reason of the approach ramp cutting down the highway in front of it. The Canadian Pacific Railway, acting for the parties in the construction of this North Toronto Grade Separation, decided to buy the whole of these houses so as to eliminate the damage. They held them for a considerable time and Mr. Ripley advised me that they have since sold them all but one, I think. Mr. Ripley advised me that they have suffered no loss in this connection. Therefore, in my opinion, I do not think that there should be any damages assessable in this case. There was no money changed hands and it does not appear to me to warrant any charge against the subway. I am, therefore, cutting out this item entirely.

"6th. Additional strip of land required for two track subway, 16,000 sq. ft. at 90 cents.. .. .. $14,400 00

"The Canadian Pacific Railway were required to build a two track subway and they were permitted, on the north side, to use a strip 15 or 20 feet for a slope, or in lieu thereof, a retaining wall. Before the work was started, the Canadian National Railway came to an agreement with the Canadian Pacific Railway and decided to build a four-track subway. Therefore, the land required for the slope was covered by the Canadian National Railway tracks. In other words, the embankment of the Canadian National Railway track passed entirely north of the embankment of the Canadian Pacific Railway and eliminated the necessity of either building a retaining wall or using land for the Canadian Pacific Railway slopes. Therefore, there was no purchase made. No money changed hands and I cannot see that this charge, which is purely hypothetical, should be laid against the cost of the subway, but there is an item of $3,075, included in the amount of $14,400, for a triangular piece of land which I think, in all fairness to the Canadian Pacific Railway,

they should be allowed. It is on Lot 79, at the southwest corner of Avenue Road and MacPherson Avenue.

"To sum up, I think the items shown below and dealt with singly in this report are fair and just and should be a charge to land damages caused by grade separation of the Avenue Road Subway.

"Item No. 1—Purchase of houses required for diversion of Marlborough Place	$16,287 00
"Item No. 3—H. H. Williams services negotiating *re* damages	200 00
"Item No. 4—H. H. Williams services negotiating *re* damages	200 00
"Item No. 6—Triangular piece of land on Lot 79 southwest corner of Avenue Road and MacPherson Avenue	3,075 00

"Of these items, 10 per cent is chargeable to the Toronto Railway Company under the Order. Interest should be added from the date of purchase to the present time, as it is over a period of 10 years. I presume that the rate of interest might vary, but that could be figured out by both parties.

"I would suggest that a copy of my report be sent to each party for any comments they wish to make thereon.

"Yours truly,

"GEO. A. MOUNTAIN,
"Chief Engineer."

A copy of this was sent to the Canadian Pacific Railway Company and the Toronto Street Railway Company, but, as the former declined to accept the report, the matter came before the Board for a hearing on the 5th day of May last, at which the Canadian Pacific Railway Company and the Toronto Street Railway Company were represented by counsel, and at which the city of Toronto failed to appear, stating in a letter to the Board, dated the 2nd day of May, 1922, that its interests were identical with the C.P.R. and that it was not a party to the exceptions taken by the Toronto Railway Company and had no objection to urge the adjustment determined by Colonel Ripley.

There was no objection to the following items:—

No. 1—Purchase of houses required for diversion of Marlborough Place	$16,287 00
No. 3—H. H. Williams services negotiating *re* damages	200 00
No. 4—H. H. Williams service negotiating *re* damages	200 00

Item No. 2.—At the hearing it was evidenced that some portion of this had been paid by way of taxed costs, and I did not think the Canadian Pacific Railway Company were pressing very hard for its inclusion.

Two important items, however, were discussed, upon which this Board must make a decision. These were:—

Item No. 5—Damages sustained *re* Canadian Pacific Railway houses on Avenue Road at northwest corner Avenue Road and MacPherson Avenue	$ 5,062 50
Item No. 6—Additional strip of land required for two track subway, 16,000 sq. ft., at 90c ..	14,400 00

In Mr. Mountain's report he stated that he had been advised by Mr. Ripley that they had sold all these houses but one and that they had suffered no loss in this connection, and, therefore, Mr. Mountain decided it should not be included in the amount chargeable in part to the Toronto Street Railway Company. At the hearing, Mr. Ripley admitted that he had made practically the same statement to Mr. Mountain as appears in the report, but, on further investigation, found he was in error, and the Canadian Pacific Railway filed a statement as follows:—

FINANCIAL STATEMENT ON C.P.R. HOUSES, AVENUE ROAD, CORNER AVENUE ROAD AND MACPHERSON AVENUE

Purchase price in 1910	$35,150 00	
Purchase expense 2½ per cent	878 75	
Interest to 1919—9 years at 5 per cent	15,817 50	
Taxes paid on above property	6,091 13	
Sales expense 2 per cent on $22,700—see below	454 00	
Insurance $52.50 for 9 years	472 50	
Repairs 1 per cent per year—9 years on $30,510	2,745 90	
		$61,609 78
Sold five houses in 1919 for	22,700 00	
Value 2 houses left over (1919 values)	8,500 00	
Credit for No. 260 which would have remained	4,640 00	
Rents received	19,522 96	
		55,362 96
Loss on properties		$ 6,246 82

Bill showed $5,962.50 in November, 1919.

On further investigation, Mr. Mountain reported to the Board that, at a conference between Colonel Ripley, Mr. Rust, and himself, on the 23rd of June last, they went over these items again, and it was agreed that Item No. 5, $5,962.50 should be allowed, but they did not agree as to the question of interest upon this amount, and, therefore, this item should be allowed in making up the total paid by the Canadian Pacific Railway for land damages.

This brings me to the important question in dispute between the parties, viz., item No. 6, being the 16,000 square feet of land required for a two track subway, amounting to $14,400. It is agreed by all parties that, if payment for this strip of land is to be allowed, then the figures are correct.

I find that the work was authorized by Order No. 22855, dated the 12th day of November, 1914, which is as follows:—

ORDER NO. 22855

"THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA"

In the matter of the apportionment of the cost of the grade separation work at North Toronto (exclusive of Yonge Street).

File No. 12021.70

THURSDAY, the 12th day of November, A.D. 1914.

"D'ARCY SCOTT, *Assistant Chief Commissioner.*
"S. J. MCLEAN, *Commissioner.*
"A. S. GOODEVE, *Commissioner.*

"Upon the hearing of the matter at the sittings of the Board held in Ottawa, May 5, 1914, in the presence of counsel for the city of Toronto, the Canadian Pacific Railway Company, and the Toronto Street Railway Company, and what was alleged—

"*It is Ordered:*

"1. That ten per cent of the cost of the separation of grades at Avenue Road, North Toronto, be borne and paid by the Toronto Street Railway Company.

"2. That twenty per cent of the cost of the subways at Davenport road, Spadina road, and Howland avenue (not exceeding $5,000 in any one case) be paid out of the 'Railway Grade Crossing Fund.'

"3. That after deducting the contribution from the Toronto Street Railway Company and the 'Railway Grade Crossing Fund' (leaving Yonge street out of consideration), twenty-five per cent of the remainder be borne and paid by the city of Toronto; the said contributions to be based upon the cost of the work necessary to elevate two tracks with thirteen-foot centres, on the Canadian Pacific Railway, as shown on the plan approved herein, and the construction of the necessary subways, together with and including the cost of making connections with and alterations to sidings in existence on the 26th day of May, 1912, in order to give proper access thereto; the city's contribution to be for all highways at which grade separation is effected, except Yonge street, from the east of Summerhill avenue to a point where the grade runs out west of Dovercourt road.

"4. That the remainder of the cost of the said work be borne and paid by the Canadian Pacific Railway Company."

"D'ARCY SCOTT,
"*Assistant Chief Commissioner,*
"*Board of Railway Commissioners for Canada.*"

The interpretation of section 3 of this order, in my judgment, is the whole matter to be decided.

At first, it was the intention to elevate the tracks of the Canadian Pacific Railway Company alone, and, later on, it was decided that the Canadian Northern Ontario Railway tracks should also be elevated and should run alongside of those of the Canadian Pacific Railway. After certain payments from the Railway Grade Crossing Fund, 10 per cent of the total cost was to be paid by the Toronto Street Railway Company, 25 per cent by the city of Toronto and the remainder by the Canadian Pacific Railway Company, "the said contributions to be based upon the cost of the work necessary to elevate two tracks with thirteen-foot centres on the Canadian Pacific Railway as shown on the plan approved herein, and the construction of the necessary subways, together with and including the cost of making connections and alterations to sidings in existence on the 26th day of May, 1912, in order to give proper access thereto."

As I construe this clause, the cost of this work is to be ascertained by the necessary cost of elevating two tracks with thirteen-foot centres on the Canadian Pacific Railway, and it seems to me that, in arriving at the cost with this statement as a basis, it is unimportant whether the two tracks were actually constructed by themselves or in conjunction with the Canadian Northern Railway Company. It is alleged, and I believe correctly, that the Canadian Pacific Railway did not actually purchase the land in question, because, instead of using it for their northern slope, their embankment was maintained by the construction of the Canadian Northern, and, therefore, Mr. Mountain feels that, as the land was not actually purchased, it should not be included in the cost.

I regret to say I am unable to agree with this contention. It was a method provided by the order of this Board for ascertaining the cost, and, once the quantities and prices are admitted, it seems to me there is no way of eliminating

this item. It is unnecessary to go into the arguments advanced by the railway companies showing where large savings were made in the cost of the work by reason of the construction of the Canadian Northern road, all of which enured to the benefit of the Toronto Street Railway. The words in clause 3 of the order herein referred to provide the method by which the cost is to be ascertained, and, therefore, must be construed literally, and the $14,400 should be included in the cost of the work.

I, therefore, find that the total cost of this work would be as follows:—

Item No. 1	$16,287 00
Item No. 3	200 00
Item No. 4	200 00
Item No. 5	5,962 50
Item No. 6	14,400 00

As the question of interest was not settled by the parties, I think it should be allowed on items No. 1, No. 3, and No. 4, at the rate of 5 per cent per annum from the date of the order authorizing the work, viz., the 12th day of November, 1914, to date, which would amount to $2,450. As to item No. 5, no agreement having been made and it being made up of a number of items and part of the property remaining unsold, I have allowed interest for two years at 5 per cent, amounting to $596.25. As to item No. 6, as this was for land which was not actually purchased, I do not see that the railway company would be entitled to interest thereon, and, therefore, allow no interest on this item. This would make a total of $37,049.50 for principal and $3,046.25 for interest, or a total of $40,095.75 as the amount due the Canadian Pacific Railway Company. Under the order, the Toronto Street Railway Company would pay 10 per cent thereof, amounting to $4,009.57, and an order should issue accordingly.

McLean, Assistant Chief Commissioner:

Under section 12, subsection 2, the point involved as to item No. 6 being a question of law, the opinion of the Chief Commissioner who presided prevails At the same time, I may say that I have carefully examined the record of the hearing of the Board in connection with which after the hearing on May 5, 1914, Order No. 22855 issued on November 12, 1914.

The record shows that there was specifically presented to the Board in argument by the Canadian Pacific Railway Company the proposition that the Board should, as to the distribution of cost—the situation as to the Canadian Northern Railway Company being covered by statutory obligation—direct its attention to considering the separation of grades of the Canadian Pacific Railway alone, and it was set out that it was proper to consider the Canadian Pacific grade separation independently of the additions made to cost by the Canadian Northern coming alongside of the Canadian Pacific, and that it was this cost of the Canadian Pacific independently considered that should be borne in mind in making the apportionment.

Subsequent to the hearing, a draft order was prepared and forwarded to counsel for the city of Toronto, the Canadian Pacific Railway Company, and the Toronto Street Railway Company. The Canadian Pacific Railway Company, through its counsel, suggested in letter of October 27, 1914, that clause 3 of the draft Order should read as follows—

> "That after deducting the contributions from the Toronto Street Railway Company and the 'Railway Grade Crossing Fund' (leaving Yonge street out of consideration) twenty-five per cent of the remainder be borne and paid by the city of Toronto; the said contributions to be based upon the cost of the work necessary to elevate the two tracks on the Canadian Pacific right of way as shown on plan and the construction of the necessary subways, together with and including the cost of making

connections with and alterations to sidings and tracks now existing and as shown on the said plan and located on both sides of the Canadian Pacific right of way in order to give proper access thereto, the city's contribution to be for all highways at which grade separation is effected, except Yonge street, from east of Summerhill avenue to a point where the grade runs out West of Dovercourt road."

In addition to the draft order having been sent to counsel for the city of Toronto and the Toronto Street Railway Company, there was also sent to them a copy of clause 3 as proposed by Mr. Beatty, for their submissions in connection therewith.

Mr. Geary, in his letter of November 3, 1914, used the following words:—

"My recollection is that there was considerable argument on the question of what tracks were to be elevated, and it was concluded that what should be elevated is 'two tracks'. Mr. Beatty's suggestion is to elevate the 'two tracks' as shown on a plan. This, of course, will probably mean a much wider fill in as much as the tracks are further apart than is necessary. What I understood was that there was to be track elevation, in the cost of which the city was to share, of sufficient dimensions to hold two tracks of the Canadian Pacific railway at the usual centres. This was in acceding to the contention of the city that the result of any other disposition would be to enable the Canadian Pacific Railway to build, at the joint cost of the Canadian Pacific Railway and the city, a viaduct wide enough to accommodate, not only two tracks of the Canadian Pacific Railway, but a track of the Canadian Northern, and in that way, to obtain from the Canadian Northern a substantial contribution to the cost, for which contribution the city would get no credit whatever. If the Canadian Pacific Railway wants a wider viaduct than is necessary to accommodate two tracks, it should be at its own expense, which expense, no doubt, in the end would be largely borne by the Canadian Northern Railway."

No communication by way of comment on clause 3 was received from counsel for the Toronto Street Railway Company. Thereafter the order issued on November 14, as indicated.

By reference to clause 3 of the order as issued it will be found that there are three differences in wording as between the draft clause proposed by the Canadian Pacific Railway Company after receiving the draft and the order as issued. The following shows in a comparative way the provisions of clause 3 of the order as issued and the provisions contained in Mr. Beatty's draft, the differences in the latter being shown by the words in brackets and italicized:—

That after deducting the (*contributions*) contribution from the Toronto Street Railway Company and the Railway Grade Crossing Fund (leaving Yonge street out of consideration) twenty-five per cent of the remainder be borne and paid by the city of Toronto: the said contributions to be based upon the cost of the work necessary to elevate (*the two tracks on the Canadian Pacific right of way as shown on plan*) two tracks, with thirteen foot centres on the Canadian Pacific Railway as shown on the plan approved herein and the construction of the necessary subways together with and including the cost of making connections with and alterations to sidings (*and tracks now existing and as shown on the said plan and located on both sides of the Canadian Pacific right of way*) in existence on the 26th day of May, 1912, in order to give proper access thereto; the city's contribution to be for all highways at which grade separation is effected, except Yonge street from east of Summerhill avenue to a point where the grade runs out west of Dovercourt road.

While no reasons for judgment issued on the 1914 hearing referred to, it is evident from the argument at the hearing and the submissions made in regard to the form of draft order that the point involved in Mr. Beatty's argument was fully considered by the Board, and the form of the order considered in connection with what is contained in the record makes clear that the words "the said contributions to be based upon the cost of the work necessary to elevate two tracks with 13-foot centres on the Canadian Pacific Railway as shown on the plan approved herein" were designedly drafted with a view to making explicit that the computations as to contribution were tied up to a structure providing for two tracks of the Canadian Pacific, and the necessary expenses in connection with the construction thereof.

I agree in the disposition of the various matters involved as set out in the reasons for judgment of the Chief Commissioner.

COMMISSIONER RUTHERFORD:

I concur in the judgment of the Chief Commissioner, except as to crediting the Canadian Pacific Railway Company with item No. 6, in that company's statement of expenditures in connection with Avenue Road subway, as referred to in the said judgment.

This item No. 6 involves a sum of fourteen thousand, four hundred dollars ($14,400) which the Canadian Pacific Railway Company has charged, as being the price of 16,000 square feet of land included in the original estimate of cost, on the presumption that the land in question would have to be purchased by the railway company, in order to elevate its two tracks with thirteen-foot centres, as provided in the agreement. The said sum of fourteen thousand, four hundred dollars ($14,400) with interest on same ($5,337.86) is included in the total of $51,809.58 as shown by the Canadian Pacific Railway Company's statement which forms the basis of the apportionment of charges to the city of Toronto and the Toronto Street Railway Company.

Owing to the participation of the Canadian Northern Railway Company in the construction of these subways, which necessitated the purchase and use by that company of the 16,000 square feet of land in question, the said land was not actually purchased by the Canadian Pacific Railway Company, and its purchase price should therefore, in my opinion, not be allowed.

The Chief Commissioner, in his judgment, refuses to allow the Canadian Pacific Railway Company the interest on the amount for the eight years which have elapsed between 1914 and 1922, on the ground that the land was not actually purchased.

I agree that the Canadian Pacific Railway Company is not entitled to this interest, but I cannot agree that it is entitled to the principal, or to the interest which, inferentially, the sum involved will earn in the future.

APPLICATION OF CITY OF HAMILTON *re* CROSSING TRACKS T.H. & B. RAILWAY AND G.T.R. BY STORM OVERFLOW SEWER IN CITY OF HAMILTON

Judgment of Commissioner Boyce, October 26th, 1922, concurred in by Commissioner Lawrence, and Assistant Chief Commissioner under separate Judgment dated October 30, 1922.

These cases were heard together, the arguments of Counsel being confined to the question as to the distribution of the cost of the works, which the City asked for permission of the Board to carry on. The work, common to all the applications, was the laying of a sewer, or a "storm overflow sewer," under the tracks of the railways, respectively, where they cross the streets in the city of Hamilton, referred to in the application of the city.

There is no dispute in any of the cases as to the necessity for the work. In every case the railway concerned raises no objection to the work being performed, and were it not for the special feature of the application by the city in insisting that the railway company should pay the cost of the work involved in extending the sewer across its tracks, and, where necessary (as in two of the applications) the cost of raising the railway tracks, the application would, upon the consent to the work, be of a nature provided for by section 269 (subsection 3) of the Railway Act, and the regulations passed thereunder, and no order of the Board would have been necessary.

In each case, therefore, an order of the Board was made authorizing the work, and reserving the question of the apportionment of the cost thereof for further consideration.

The main contention of the city to which argument was directed at the hearing, and in subsequent submissions, was that, the city street involved in each case being senior (a statement not disputed by the railway concerned) its seniority continued and subjected the railway concerned to the payment of the extra cost involved in the crossing of that railway by the storm overflow sewer which the city was laying along the street, by analogy to the principles generally followed by the Board in applying what is known as the "Senior and Junior rule" to the crossing of the railways by highways. The argument of Mr. Waddell, K.C., for the city involved, *inter alia*, the contention that the soil and freehold in the city street, crossed by the railway was vested in the city, and that the freehold carried with it the right to the sub-soil, and that the placing of a storm overflow sewer by the city under its streets was a necessary and proper user of its own property to which the railway, at its crossing, became subject, as junior in point of time of establishment, with consequent liability to contribute the additional cost involved in carrying such sewer along the street under the railway.

Argument was also directed to the question as to the status and title of the city as regards its streets, and while a conclusion one way or another upon such contentions as were advanced, respectively, on behalf of the city and the railways, may not conclude the question of contribution to cost, more directly involved, it is desirable that due consideration should be given to what is involved in these respective contentions.

The status and title of the municipality as regards the street at the time of its crossing by the Dominion Railway depends upon the construction to be placed upon the appropriate sections of the Municipal Act then in force as defining such title. The Municipal Act (Ontario) of 1903 (3 Ed. VII. chapter 19, sections 598, 599, 601) carries forward the same definitions as are contained in R.S.O. 1897 (chapter 223, sections 598, 599, 601), and in the former enactments there consolidated. These are, in the form of the 1903 consolidation, traceable back far enough to govern conditions at the time of the crossing of the Hamilton streets by the railways in question.

The apparent variation in definition as to title contained in sections 599 and 601 of these enactments led to considerable discussion, and was the subjec of judicial doubt as to just what was intended by the two sections.

Abell v. York, 61, S.C.R. at pp. 350-351.
Biggar's Municipal Manual, at p. 818.

There is some ground in the wording of the two sections of the Ontario Act, 1903, referred to for the contention that a lesser interest is intended by section 601 than by section 599, especially as the words "soil and freehold" used in section 599 are not carried into section 601, thus leaving it open to the construction that whereas by the former section the "soil and freehold" were vested, at that time, in the Crown, by the latter section, the street was placed in the possession and control of the municipality for local purposes, that is, that the

freehold, by section 599 was vested in Crown, possession, by section 601, in the municipalities for municipal purposes, which is in agreement with the respective headings to each section, as far back as 1897, viz., 599; "Freehold in the Crown" —601, "Possession in municipalities." If, by section 599, as it then stood, the "soil and freehold" of a highway were, by statute, vested in the Crown, the same title in the same highway could not be in the municipality.

The difference of interpretation of these sections, doubtful as they seemed, led to a new section being introduced into the Municipal Act (Ontario) 1913, R.S.O., chapter 192, section 433, providing as follows:—

> "Unless otherwise expressly provided, the soil and freehold of every highway shall be vested in the corporation, or corporations, of the municipality or municipalities, the council or councils of which for the time being have jurisdiction over it *under the provisions of this Act" (1913).*

This enactment was not in the form of a declaration to settle the law owing to the conflict of interpretation of the former sections in the old Acts referred to, and therefore it was retroactive but spoke from date of its coming into force, (1913) and its effect was to vest the "soil" and "freehold" of the highway in the municipality, "for the time being, having jurisdiction over it *under this Act*" (viz., the Act of 1913). It would seem, therefore, that the contention as to seniority of rights, (as to the railways involved) to use the subsoil of the streets of Hamilton for the purpose now proposed rests (in Ontario) upon the legislation of 1913 above referred to, and that, from the date of the coming into force of the 1913 Act, such rights as are vested thereby accrued *then* to the city, and therefore, there would seem to be force in the contention urged by the railways, that *qua* the railway, then in place, under Dominion authority, the municipality had acquired no seniority in the subsoil, but was junior to it, though senior as regards surface rights for highway purposes, and that the laying of water pipes under the street was not an incident to the city's title to the street, as defined by the Act.

Such is the condition of the legislation in one province (Ontario). In all the provinces of the Dominion the soil and freehold is not vested in the local municipality, e.g., Quebec, where it is vested in His Majesty (in right of the province), and in Manitoba, Saskatchewan and Alberta, the right of His Majesty (in right of the Dominion) to the soil and freehold of highways, has never been taken away. Seniority of a Dominion railway traversing various provinces of Canada over highways would, therefore, depend upon the state of the provincial law applicable to title in the highways of each province, if seniority is to depend, as to the use of the highways for other than general travel, upon the local law governing title in soil and freehold. The question raised must, I think, be capable of decision upon more stable and uniform ground than this.

The provisions of the British North America Act, relied upon in argument of counsel for the city are of importance as regards the railways concerned, all of which are "works and undertakings" of one or other of the classes specified in the exceptions (*a*) and (*c*) of subsection 10 of section 92 of the British North America Act, but these provisions, themselves, and as interpreted and applied by judicial decision, do not seem to me to strengthen the city's contention on the constitutional ground suggested in the argument. By section 92 of the British North America Act, subsection 13, "Property and civil rights in the province" is one of the classes of subjects as to which the provincial legislatures may exclusively legislate, but by subsection 10 specific exception is made of the works and undertakings of Dominion charter of the classes mentioned in (*a*), (*b*) and (*c*) thereof, and subsection 29 of section 91, and the concluding para-

graph of that section following, make it clear that these railways are within the exclusive legislative authority of the Parliament of Canada.

By Acts of the Parliament of Canada the railways concerned derived their powers in carrying out their respective works and undertakings, and in virtue of those powers, and subject to the provisions, conditions and safeguards prescribed by the Railway Act, the city streets of Hamilton were intersected, and upon these streets, at such intersections, became established, not subject to provincial law, but by the paramount power of Parliament. By the Railway Act of Canada provisions are made for the conditions upon which railways under the jurisdiction of the Parliament of Canada may invade the rights of private individuals, or private or public corporations—including municipal corporations, created by Provincial authority (e.g., *Vide*, sections 255-258 of the Railway Act, 1919.) These conditions are for the safeguarding of, say, public rights as represented by municipal (or local) control or government. A Dominion railway crossing a public street without conforming to the requirements of Dominion enactments is, ipso facto, a trespasser and may be restrained, but once it receives by properly constituted Dominion authority (whether the Railway Committee of the Privy Council, before the constitution of this Board, or by this Board in whom the power is now vested to grant or refuse such permission according to varying conditions) it is there, as a Dominion work, by the paramount power and authority of the Parliament of Canada, and is not subject to the provisions for municipal control contained in any provincial statute. It thereby, under such paramount power, and under the provisions of the British North America Act, I have cited, acquires the right to interfere with property and civil rights in the provinces. And, having acquired that paramount right, it cannot, I think, be argued with any consistence or cogency that such paramount right can, many years afterwards, be affected, interferred with or diminished by the assertion by the municipality of what might be termed a "slumbering or inchoate right" in the subsoil of the street across which the railway is so established by Superior legislative authority.

C.P.R. v The King, 7 C.R.C. 176.
C.P. Ry. Co. v The Municipality of Notre Dame de Bonsecours (1899) A.C. 367, pages 372, 373.
City of Toronto v Bell Telephone Co., 3 O.L.R. 465.
Reversed in appeal, 6 O.L.R. 335.
Tennant v Union Bank of Canada (1894), A.C. 31.
Canada Atlantic Railway Co. v Ottawa, 1 C.R.C. 298.
Madden v Nelson & Fort Sheppard Ry. Co. (1899), A.C. 626, at page 628.

And where by Dominion authority, the railway crosses a highway, it has the right to cross without expropriation proceedings and without making compensation to the municipality. The lesser, or local, interests of the people of the latter, being, by force of law referred to, made subject to the greater interests of the people of the whole State, as represented in a work, the nature of which is, by statute, declared to be a work for the general advantage of Canada.

Canada Atlantic Ry. Co. v. Ottawa, 2 O.L.R. 336 4 O.L.R. 56.
Also see Mayor Etc. of Birkenhead v. L. & N.W.R. Co. 15 Q.B.D. 572; Judgment of Brett, M.R. p. 578.

The contention, therefore, pressed upon us in the argument of counsel for the city, that the provisions of the British North America Act, with respect to the preservation to the exclusive jurisdiction of the legislatures of the various provinces of question affecting property and civil rights of and in the provinces, may be invoked to aid in the city's contention as to contribution to cost, does not appear to be a cogent one, because,—

(*a*) Whatever rights the city had at the time the railway came to lay its sewers are not impaired now by the presence of the railway, except to the extent of any extra cost involved in carrying out the Municipal work by the presence of the railway;

(*b*) By the Dominion Railway Act, power is vested in this Board, as successor to the jurisdiction and functions formerly exercised by the Railway Committee of the Privy Council, to impose such terms and conditions, as by the Railway Act, and the Special Act are provided as proper for the purpose of safeguarding, in a variety of ways, applicable to various conditions, the rights and interests of the municipality.

There must, therefore, be found in the Dominion legislation, the Railway Act of Canada, 1919, the jurisdiction to afford the remedy the city is seeking. That is apparent by the application to this Board by the city, under the Railway Act of Canada. By the application the city recognizes the legal situation, as I have endeavoured to point it out, viz: that the railway being constructed, under authority of Dominion law, across this street, the city must apply to that duly constituted authority for permission to interfere with that railway in the exercise of its municipal powers, derived from the Provincial Legislature, in the use of its street, to the extent of that part of it occupied by this railway, and over which, but for the presence of the railway under authority cited, the city would have complete jurisdiction and control by force of Provincial Law. It is clear, therefore, that there is no conflict of laws, Dominion and provincial, involved in the argument of counsel upon the question as to the rights of the city under that provincial law.

The city's application must, I think, fall within and be governed by the provisions of section 269 (*b*), of the Railway Act, 1919, as the only section applicable to the main object sought, viz: permission to lay an overflow storm sewer under a railway. "A storm overflow sewer" is, as its name implies, an auxiliary means of drainage (common to the city at large, and for the benefit of the city as a whole), of the surplus, or emergent, quantity of water brought into the city drainage system by storms. It is not applicable to the drainage of any particular area, and, therefore, is not in contemplation in such of the sections of the Railway Act as deal with drainage obligations incident to the particular area occupied by the railway, consequently it is purely a municipal drainage scheme and the railway does not contribute to its necessity nor is it concerned in its utility.

Section 268 is not applicable, in my opinion, for the obvious reason that (*a*) it applies only to construction period, and (*b*) neither the drainage of the area of land in the vicinity of the railway, nor the obligation therein referred to, of the railway to drain it, is in any way involved. Section 270 is not applicable also, for the obvious reason that such proceedings as are therein provided, are under provincial Drainage Acts, in so far as they, or any of them, are applicable, a discussion as to the constitutionality of which would not be important here. The relevancy of section 270 is disposed of as regards this application, by the fact that it has not been invoked, no procedure taken thereunder, and this Board having now made Orders approving the city's application, the provisions of that section (270) (subsection 2) render the section inapplicable.

The applicable section (269 (*b*)) provides as follows:—

> Whenever (b) "any municipality or landowner desires to obtain means of drainage, or the right to lay water pipes or other pipes, temporarily or permanently, through, along, upon, across or under the railway or any works or land of the company;"

The application, under this section, by the city is "*to obtain the right*" etc. to lay water pipes. The contention of the city, therefore, as to its freehold estate, carrying that right, is merged in this application.

Now, as I have pointed out, there is no dispute as to the carrying out of the work, i.e. the railway made no objection to permission being granted to the city to carry its storm overflow sewer, under its tracks, proper engineering safeguards being settled. By subsection 3 of section 269, in case of consent of the railway, no Order of this Board is necessary and the procedure is governed by the standard regulations of the Board applicable to such a case.

Section 269, in the Act of 1919, was formerly section 250 of the former Consolidated Railway Act, 1906, but section 250 of the old Act did not contain subsection 3 as above referred to, but the old section *did* contain the other provisions in the section now invoked as well as what is provided for in section 268 of the present Act.

Provision for compensation to an owner injuriously affected, provided by latter part of subsection 2, section 269, of the present Act was not included in secton 250 of the old Act. No questions arise as to compensation between the city and an owner, so far, in these applications.

In the exercise of its powers, this Board, by General Order No. 74, dated April 19, 1911, provided Standard Rules and Regulations to govern the laying of water pipes, etc., under section 250, and that order adopting those regulations, which were passed under power of the Statute (Section 34) provides as follows (General Order No. 74, Section 3):—

> "3. That every order of the Board granting leave to place or maintain any pipe or pipes across any railway subject to the jurisdiction of the Board be, unless otherwise expressed, deemed to be an order for leave to place or maintain the same under and according to the said conditions and specifications, which conditions and specifications shall be considered as embodied in any such order without specific reference thereto, subject, however, to such change or variation therein or thereto as shall be expressed in such order."

And, that part of the regulation so adopted, relating to cost of the work, section 5, is as follows:—

> "5. All work in connection with the laying, maintaining, renewing, and repairing of the said pipe and the continued supervision of the same shall be performed by, and all costs and expenses thereby incurred be borne and paid by, the applicant; but no work at any time shall be done in such a manner as to obstruct, delay, or in any way interfere with the operation of any of the trains or traffic of the railway company or other company using the said railway."

Those regulations were in force when the amendment (1-2 George V, chapter 22) introducing what is now subsection 3 of section 269 was passed and in order to meet any question as to the application of General Order No. 74, with the Rules and Regulations then promulgated, to the amendment, the Board, by General Order No. 75, dated May 26, 1911, provided as follows:—

> "Whereas, for the purpose of dispensing with the necessity of an order of the Board where water pipes or other pipes are laid under railways, the said section 250 of the Railway Act was amended by section 8 of the Act to amend the Railway Act, assented to May 19, 1911, by adding thereto the following subsection; An order of the Board shall not be required in the cases in which water pipes or other pipes are to be

laid or maintained under the railway, with the consent of the railway company, in accordance with the general regulations, plans or specifications adopted or approved by the Board for such purposes.

"Therefore it is ordered that the Standard Regulations regarding Pipe Crossing under Railways, approved by order of the Board No. 13494, dated April 19, 1911, be, and they are hereby adopted and approved pursuant to the said amendment."

And the same rules and regulations became effective under General Order No. 75 as had been authorized under General Order No. 74, and those rules and regulations governing the whole section 269, as it now stands in the Railway Act of 1919, are now in force and govern the application of the city, as general regulations made by Dominion authority, and specifying the conditions and terms under which a work of the character contemplated by the section is to be carried out.

As I see it, the city in making this application submitted itself to the jurisdiction of this Board and thereby became subject, as well to the provisions of section 269 as also to all that is contained in General Orders 74 and 75 and general regulations thereby authorized, as the conditions and terms, contemplated to be imposed by Statute, section 34, for carrying into effect the provisions of section 269, as to the laying of the pipes, and as to the provision for the cost thereof, "having regard to all proper interests" in this instance the railway there established by authority of Dominion law under the Railway Act. Holding this view, I can see nothing in all that has been urged by the city which would, in the circumstances, disturb or interfere with the application of those General Orders and Regulations to these applications.

What is contained, specifically, in the Regulations is in accord with the practice of the Board.

Maritime Telegraph and Telephone Co. v. D.A.R. Co. and Baird v. C.P.R., 20 C.R.C. p. 213.

City of Vancouver v. V.V. and E. Ry. Co., 18 C.R.C. p. 306.

The facts are very similar to those in question in two applications made to the Board as far back as 1907, by the town of Brampton, for permission, under section 250 of the Railway Act (as it then stood) to lay sewer pipes under the tracks of the Canadian Pacific Railway, and of the Grand Trunk Railway where the tracks of those railways crossed Queen street, along which street the municipality was constructing a sewer (Board files 5383 and 5390)

The question arose then as to distribution of cost of the work under the railways' tracks. Argument of these cases was heard by the Board at Toronto, November 6, 1907 (Vol. 53 pp. 6839-6846 Record), as to form of order and what is contained in section 5 of the present regulations was adopted, practically word for word, in the orders then made governing cost of the work as far as the railways were concerned, under conditions practically the same as those now presented. I quote section 2 of Order No. 4061, file 5383:—

"2. That all work in connection with the laying, maintaining, renewing, and repairing of the said sewer pipe and the continued supervision of the same be performed by, and all costs and expenses thereby incurred be borne and paid by, the applicant, subject however, to any right of assessment in respect thereof under the provisions of the Municipal Act of the province of Ontario; but that no work at any time be

done under the authority of this order in such a manner as to obstruct, delay, or in any way interfere with the operation of any of the trains or traffic of the railway company or other company using the said railway."

In a judgment directed to the settlement of the form and terms of the orders in these cases the late Mr. Justice Killam (then Chairman of this Board) said:—

"The railways cross Queen street, and the town is constructing a sewer along that street and wishes to carry it under the tracks of the two companies. This is presumably not a case, then, in which the companies own the land, but one in which they have merely rights to maintain and operate their railways across the street. They interfere thus with the ordinary right of the town to carry the sewer under the street, and the town is obliged to obtain the authority of the Board to enable it to do this. In such a case the terms should be as little onerous upon the town as possible."

The only question, as will appear from the judgment, paragraph 3, was as to the right of the town to assess the railways for a portion of the cost of the sewer under the Municipal Act. To safeguard this right the words "subject, however, to any right of assessment in respect thereof under the provisions of the Municipal Act of the province of Ontario" were inserted into section 2 of the orders, as above.

The question of the rights of the city of Hamilton as to assessment is not raised in this case, and I do not think that any provision could be made in the orders disposing of these cases. Whatever power the city possesses as to assessment of railway property is, of course, preserved to it. The subject is independent of this Board's functions.

I have referred to the Brampton Cases at some length because they appear so opposite to the present case and because a comparison of the wording of section 2 of the orders therein made, with that of section 5 of the Regulations approved by General Orders Nos. 74 and 75 passed in 1911, leads one to the conclusion that the wording of those regulations was adopted as a result of the decision in the Brampton Cases.

The cost of the work, in each case, for which the Board's permission had already been given by order, and all other conditions and details thereof as affecting the railways, will be governed by the General Regulations promulgated in General Orders 74 and 75, including the cost of such raising of tracks of the railway as may be necessary, and as to all other questions affecting the work, in case of dispute, the Board's Engineer will act, pursuant to the Regulations, as final arbitrator.

Orders will go accordingly.

McLean, Assistant Chief Commissioner:

Some consideration of the history leading up to the issuance of General Orders 74 and 75, and some account of the practice antecedent to the issuance of these orders is pertinent.

The steps leading up to the issuance of General Order No. 74 date back to October 21, 1908, when the Board took up the consideration of drafting a standard form to deal with the very considerable number of applications arising under section 250 of the then Railway Act, and by November 25, 1908, a draft Order was agreed upon by the Board. For a time there were separate orders for water, sewage and manufactured gas on the one hand, and natural gas on the

other. In both forms of order the full cost of construction and maintenance was on the applicant. While the general form of the order was then agreed upon, discussions took place in regard to certain of the engineering features, and the result was that Order No. 74, embodying the standard regulations regarding pipe crossings under railways, was finally approved by Order of the Board dated April 19, 1911.

In general, the practice prior to 1908 had been that the order made was based upon an agreement entered into between the railway company and the municipality. See, in this connection, *Application of the city of Calgary to lay water pipes and sewer pipes under the tracks of the C.P.R. Evid. Vol. 50, p. 5031*, more particularly the statement made by the late Chief Commissioner Killam at pp. 5033-5034. The hearing in question was held at Calgary on July 26, 1907.

As pointed out by Commissioner Boyce in his judgment, a matter analogous to what is involved in the present application arose in the Brampton Case. This case, so far as the records of the Board show, was the first case in which the question was raised before the Board.

In applying to carry sewer pipes under the tracks of the Canadian Pacific Railway and the Grand Trunk, the Solicitor for the town of Brampton, in dealing with the applications against the Grand Trunk, stated:—

> "2. That by reason of the fact that the company's railway crosses Queen street in the said town, it is necessary to have the question of the rights of the parties ascertained by the Board, as the railway company refuses to consent to an amicable arrangement thereof. . . . "
>
> "5. . . . . That the corporation of the town of Brampton herein applies for an order as to how, where, when, by whom, and upon what terms and conditions the said sewer pipes shall be laid, constructed and maintained, having due regard to all proper interests, and requesting that the same may be disposed of with all convenient speed."

The Grand Trunk Railway submitted a draft order in accordance with its usual form. The draft order, paragraph 2 thereof, provided that all work in connection with the laying, maintaining, renewing and repairing of the said work, and the continued supervision of the same were to be performed by, and that all costs and expenses thereby incurred were to be borne and paid by the applicants; that is, the municipality.

In the answer of the solicitor for the town, dated September 19, 1907, in criticizing the position taken by the railway, the following words were used:—

> " . . . . It seems to me that the order proposed is a very one-sided one. It would seem to me to be drafted on the assumption that the railway owns the street, whereas, I presume, the fact is that the corporation, or the public owns the street, and that every person has an equal right to it."

In the sitting at Calgary, already referred to, Mr. Bennett, who appeared for the Canadian Pacific Railway, further stated that the company had a standard agreement which prevailed all over the system. The Chief Commissioner, in commenting on this said: "Something of that kind should be done when it is under the company's right of way. When it is a highway, over which you have the right to cross, it is different."

In the Brampton Case, notwithstanding the position taken by the town, as already set out, in regard to its rights as affected by the matter of seniority, an order issued in accordance with the draft as submitted by the Grand Trunk. Thereafter, a hearing was asked for by the town.

In the draft form which the municipality submitted exception was not taken to the cost being upon the applicants, but it was desired that a clause should be inserted providing that the assessment of cost upon the applicant municipality should be subject to the provisions of the Municipal Act respecting local improvements.

In the argument presented at the hearing in Toronto on November 16, 1907, Mr. Blain, who appeared for the town of Brampton, said, *inter alia, Evid Vol. 53, p. 6844;* "Then the next question as to the cost. We submit that the statute provides that we shall not be put to any cost in using what we have as much right to use as the company has." Then he referred to the superintendence in connection with putting in the work, and criticized the position taken by the railway in asking that the municipality should pay the cost of superintendence. The following discussion, however, took place on this point at the same page:—

> "Hon. Mr. KILLAM: Why should they be put to unnecessary expense for looking after their track where you put through a sewer? Is it not reasonable to require you to look after that?"
>
> "Mr. BLAIN: That is not unreasonable. I would not press that."

The material portion of the judgment, rendered by the late Chief Commissioner Killam which seems pertinent in the present application has already been quoted by Commissioner Boyce.

When the proceedings were initiated in 1908, as already referred to, in connection with the standard form of order, the Board's attention was specifically directed to the form of the orders which had been used by the railways, as well as to the form of order which issued in the Brampton Case after rendering of judgment, as above referred to.

When the drafting of the rules was under consideration, and a point was raised as to whether the municipality should be responsible for the cost of an inspector for the railway company where a main was being laid under railway tracks upon the street, the latter being senior to the railway, the late Chief Commisssioner Mabee, on November 18, 1908, ruled that the municipality should not be so subject; and he continued that different considerations arise where a private corporation applies to lay a main under the tracks upon a street, or where either the latter or municipal corporation applies to lay a main under tracks where the railway company own the right of way.

Substantially the same point arose in connection with a claim made by the Canadian National Railway against the city of Belleville for the wages of a watchman watching the track while water pipes and sewer pipes were being installed under the tracks of the railway in question. The ruling in question, which was dated March 24, 1920, will be found on *Board's File No. 9473.21, Board's Orders and Judgments, April 15, 1920, Vol. 10, No. 2, p. 31,* and it was held that since the work was being carried out on the highway which was senior to the railway, that notwithstanding that the expense of the watchman was in the public interest in connection with the work, at the same time the city, in carrying on this work and in exercising the right attaching to its ownership of the highway, should not be subjected to the expense of the watchman, but that the said expense should be borne by the railway company, whose right is junior,

It would appear then, that in the steps leading up to the regulations of the Board as now embodied in General Orders 74 and 75 which, in so far as obligation in regard to cost is concerned, set out the Board's construction of section 269 of the present Act (which was section 250 of the antecedent Act), that the Board has had before it the contention as to the incidents of cost attaching to municipal seniority. That with this clearly presented before it in the

Brampton Case, the only modification was by way of safeguarding the rights of the municipality in respect of any right of assessment under the provisions of the Municipal Act.

It appears further, that when the whole question was being gone into in the light of the antecedent practice of the Board, a modification was made in regard to inspection. Subject to this, the burden of expense, under the orders in question, is on the municipality.

The Brampton Case was the only one in which, prior to 1908, the question of the incidents of cost attaching to municipal seniority was raised. Owing to the amendment made to section 250 of the former Railway Act, made by subsection 3, which amendment is continued in subsection 3 of section 269 of the present Act, there have been very few cases in which the matter of sewer pipe crossings have come before the Board for formal orders. Judging from the records the practice of the municipalities, in applications falling under Orders 74 and 75, has been to accept the burden of cost as one attaching to the municipality.

On September 17, 1913, an application was launched, by the city of Hamilton for an order authorizing the construction of a 20-inch water main under the tracks of the T. H. & B. Ry., at Main street west. Main street is senior at this point. See the Board's judgment, February 17, 1920, in the *Application of the Toronto, Hamilton and Buffalo Railway Company for an Order authorizing the company to reconstruct overhead bridge at Main street, Hamilton, Ontario. Board's Orders and Judgments, Vol. 9, No. 24, p. 437.*

The street is carried across the tracks of the railway by a bridge, and there is nothing on file to show whether it was contended by the railway that the rights of seniority of the municipality attached only to the substituted highway afforded by the bridge, and were extinguished insofar as a crossing on the level under the tracks of the railway was concerned.

With the application made by the city for an order there had been filed a draft order, initialled by the parties, providing that the work was to be done in accordance with the provisions of General Orders 13494 and 13731 (these are now General Orders 74 and 75). In view of the amendment which had been made to section 250 of the Railway Act, no order was necessary.

The location of paragraph 5 in the Standard Regulations regarding Pipe Crossings approved by General Order 74, might suggest that the provisions as to cost being on the municipality related only to pipes for oil and natural gas, because paragraphs 4 and 5 are under the heading "Pipes for oil and natural gas" However, it is clear from the record leading up to the issuance of the order that this descriptive heading, "Pipes for oil and natural gas" simply applies to paragraph 4. The descriptive heading is not to be found in the draft form of order formally approved by the Board.

The wording of paragraph five, subject to the provisions of paragraph seven regarding the wages of the inspector, applies generally in respect of the incidents of cost to the municipality in connection with the various matters of pipe crossings under the order, and it explicitly places the cost of construction and maintenance upon the applicant. Were there ambiguity in phrasing the Board would be justified, I think, in construing the order strictly against the railway, but there is no ambiguity.

I agree in the judgment of Commissioner Boyce.

APPLICATION OF CITY OF WESTMOUNT *re* DELIVERY LIMITS OF EXPRESS COMPANIES.

Judgment of Assistant Chief Commissioner, November 24, 1922, concurred in by Deputy Chief Commissioner and Commissioner Boyce.

This matter was heard in Montreal on the second day of October, 1922. What is involved is an application to make extension in the area of delivery service of the express companies.

It was pointed out to the applicant at the hearing that the Board had laid down in its judgment of July 17 1919 (Board's Orders and Judgments, Vol. IX, p. 133), general regulations which it considered reasonable in connection with the limitation of free delivery limits. Prior to the adoption of these rules, the Board had dealt with individual cases and the record was an unsatisfactory one, as no unit standards of population or development were possible under such conditions. The conditions set out in the Express Judgment of 1919 were arrived at after careful consideration. If a municipality falls within the conditions so set out, it is entitled to an extension of the delivery limits. To the extent to which it does not fall within the conditions above referred to, I am of the opinion that the Board is not justified in giving it exceptional treatment. The conditions have been and are being applied generally; and they are reasonable.

In the hearing in the present case, direction was given that the parties were to get together and go over the detail, checking out what was set out on the map presented by Mr. Ham on behalf of the express companies. This map purported to show just what area was being furnished free delivery service under the provisions of the Board's judgment.

Under date of October 14, 1922, the Board received the following letter from Mr. Ham:—

> "When the application of the city of Westmount for an extension of the express cartage limits to include the territory above the Boulevard was heard at Montreal on October 2, it was suggested by the Assistant Chief Commissioner that we get in touch with the municipal authorities to see whether the two parties could not agree on the population figures in the several blocks in dispute. This has been done and I am now enclosing a blue print of Westmount blocked out into quarter-mile squares, each square lettered for reference purposes, showing in red figures the number of families in the different blocks. These red figures are those which were presented by the Westmount representatives at the hearing, and we will take no exception to them. The yellow figures on the map, which indicate the number of houses in each block above the Boulevard, were presented to the Board at the hearing on October 2 by the Express Traffic Association and, I believe, are not challenged by the Westmount authorities.
>
> "For ready reference the number of houses in the different squares are shown below:—

Square Letter	Number of houses In complete block	Above Blvd.
A	2	2
B	2	2
C	40	27
D	44	34
E	4	4
H	175	—
I	63	18
J	31	31
N	98	2

> "It will be noted that the express companies have been extremely liberal in establishing the cartage limits at Wesmount, for both blocks

'I' (containing 63 families) and 'N' (containing 98 families) do not even yet come up to the population requirements of the Board's rules, though both these blocks are already served in part. A glance at the map will show the Board that there is no warrant for any further extension of the Westmount cartage limits at this time."

The matter has stood for further communication from counsel for the municipality. The Board is now in receipt of a communication from counsel for the municipality which does not take exception to the position that the delivery limits established are in compliance with the conditions above referred to. It is set out that the present delivery limit is the boulevard; it is suggested that a more reasonable arrangement would be to make delivery within the territory one block north of the boulevard, which is stated to be comparatively closely built up and would involve no extra cost or inconvenience to the express companies.

When standards are adopted dealing with areas within which there is to be free delivery service as compared with areas within which the free delivery service is not directed to be performed, it happens, of necessity, that a dividing line must be drawn somewhere.

I am of opinion that a case for variation of the regulations has not been made out on the facts submitted in the present application.

COMPLAINT OF NATIONAL DAIRY COUNCIL OF CANADA *re* FREIGHT RATES ON BUTTER.

Judgment of Assistant Commissioner, September 26, 1922, concurred in by Chief Commissioner, Commissioners Rutherford and Lawrence.

The complaint as launched, as per letter of the general counsel, secretary and treasurer, dated December 27, 1921, dealt with the rates on butter, in carloads, from Calgary and Edmonton to Montreal and Vancouver. It was pointed out that since 1914 the rates had been materially increased. The following submission was made:—

"Bearing in mind the very great reduction that has taken place in the price of butter since the increases were authorized and the necessity of developing mixed farming in Alberta, I beg to submit that the present rates, both east and west of Calgary and Edmonton, on butter, are excessive, and should be reduced."

The matter was set down for hearing and spoken to at Ottawa on February 23, 1922. While only Calgary and Edmonton as shipping points were named in the complaint as originally filed, at the hearing counsel enlarged his complaint to include the rates from other points in the Prairie Provinces to Vancouver and Montreal; and requested the re-establishment of rates that were in effect in 1917. With one or two exceptions, the rates of 1917 are the same as the rates of 1914.

It was represented that the reduction in rates would be for the benefit of the farmer. Counsel, at p. 1675, stated:—

"I am speaking from the farmers' point of view, because those centralizers who make and sell butter are really just the representatives of the farmers. There is a recognized spread between what the farmer gets for his butter fat and what the creamery gets for the butter, and the higher the price for the butter, why, the higher the price the farmer gets for his butter fat. So that it is really the point of view of the dairy farmer in the western provinces that I think I am justified in speaking for."

It was also alleged that there has been some difficulty in competing in the Vancouver market on account of butter importations from New Zealand under low ocean freight rates and an advantage through the rate of exchange, although in respect of this there appears to have been also the influence of an abnormal situation which is described by counsel at p. 1676, as follows:—

> "The English market has been in an unfortunate condition, due to the fact that the decontrol of butter by the British Government went into effect on the 1st of April last. During the war and subsequent, the butter market in England was controlled by the British Government. On the 1st of April last, they relinquished control, and there was a great deal of butter that they had on hand, in storage, placed upon the market, and that has had a depressing effect. The result has been not only to shut out shipments from Canada to England but to cause New Zealand butter which would otherwise have gone to England to come to Vancouver to try and get a market there."

The following discussion at p. 1684 sums up the complaint and the relief desired:—

> "The ASSISTANT CHIEF COMMISSIONER: Just another question, Mr. Scott. You spoke of rates to Vancouver and of rates to Montreal. I take it the movement to Vancouver is the more important one. You speak of New Zealand butter competition, but at Montreal you are directly adjacent to or in the short haul movement to the Eastern Townships.
>
> "Mr. SCOTT: Yes, Montreal, of course, is pretty well supplied by a very good producing territory.
>
> "The ASSISTANT CHIEF COMMISSIONER: So then, I take it, the essence of your complaint is the question of getting something analogous to a commodity rate to meet the water competition of New Zealand butter at Vancouver.
>
> "Mr. SCOTT: Yes, at the moment that is the most serious portion of the problem; but our desire to get low rates to Montreal, or lower rates than at present exist to Montreal, is founded on the intention to stimulate exports to Great Britain."

The present rates are considerably below the peak reached in September, 1920. Taking typical shipping points, the situation with regard to the butter rates under complaint may be summarized as follows:—

From	To Vancouver (Rates in cents per 100 lbs.)		
	1917	Peak—1920	Present rate
Calgary	91	154	137
Edmonton	91	154	137
Moose Jaw	137	231½	192½
Winnipeg	147	248½	221

	To Montreal (Rates in cents per 100 lbs.)			
	1917	Peak 1920	Effective December ., 1921	Effective June 8, 1922 (When for export)
Calgary	194	345	307½	246
Edmonton	194	345	307½	246
Moose Jaw	154	277½	247½	210
Winnipeg	108	200	178½	161

In comparison with other traffic moving under class of commodity rates (except certain articles of low-grade traffic), butter has not been subjected to any greater increase and has received equal decrease (greater, in the case of shipments to Montreal for export) since the peak in 1920. Attention is directed to the establishment by the railways, since the hearing, of reduced rates on butter from western Canadian points to Montreal for export, effective June 8, 1922. These rates reduced those complained of at the hearing by the following percentages: From Manitoba points, 10 per cent; from Saskatchewan points, 15 per cent; from Alberta points, 20 per cent. The reduction has been graded in case of the higher rates for the longer hauls.

The production and value of creamery butter, taken from the records of the Dominion Bureau of Statistics, for the three Prairie Provinces, are given below:—

MANITOBA

Year	Creamery Butter		
	lbs.	$	cts. per lb.
1900	1,557,010	292,247	18·76
1907	1,561,398	388,427	24·87
1910	2,050,487	511,972	24·96
1915	5,839,667	1,693,503	28·99
1916	6,574,510	2,038,109	31·00
1917	7,050,921	2,595,472	36·80
1918	8,436,962	3,897,476	46·19
1919	8,268,342	4,350,693	52·61
1920	7,578,549	4,282,731	56·51
1921	8,541,095	3,253,057	38·08

SASKATCHEWAN

1900	143,645	29,362	20·44
1907	132,803	36,599	27·55
1910	1,548,696	381,809	24·65
1915	3,811,014	1,055,000	27·68
1916	4,310,669	1,338,180	31·04
1917	4,220,758	1,575,965	37·33
1918	5,009,014	2,221,403	44·34
1919	6,622,572	3,495,172	52·77
1920	6,638,656	3,727,140	56·14
1921	7,030,053	2,552,698	36·31

ALBERTA

1900	601,489	123,305	20·49
1907	1,507,697	362,782	24·06
1910	2,149,121	533,422	24·82
1915	7,544,148	2,021,448	26·79
1916	8,521,784	2,619,248	30·72
1917	8,943,971	3,414,541	38·17
1918	9,053,237	4,025,851	44·46
1919	11,822,890	6,132,733	51·87
1920	11,821,291	6,555,509	55·45
1921	12,929,264	4,478,585	34·63

NOTE.—The figures for 1921 are prelimimary, being subject to final correction when all the returns are complete.

The matter as presented is not based on the contention that the rates are out of line on butter as compared with other commodities, or that butter is paying an inordinate proportion of the increase in rates, which was found necessary, as compared with the burden on other commodities. The reasonableness of the rates as railway rates, bearing in mind the question of railway costs,

was not attacked. The application was, in substance, the contention that because the selling price of butter had gone down since the rates were increased the rates should be accordingly reduced.

The principle of charging what the traffic will bear is one of the factors which has been recognized in connection with rate regulation. At the same time, it has not been accepted as the only factor. If a reduction in the price of a commodity is to automatically bring with it a reduction in the rate, it would logically follow that an increase in the price of a commodity would automatically carry with it an increase in the rate. This principle has not been accepted by the Board as valid. The mere ability of an article to pay, aside from the question of whether the increase in revenue to be derived from the increased rate is justifiably necessary, is not a conclusive justification for an increase in rate. In the increase in rates which Canada has had to face, the increase in rates was not made at the same time as prices went up. A considerable period of time elapsed before the rates were increased, and the justification for the increase was the increased cost to which the railways were subjected.

In the application, there is apparent the idea that the needs of a shipper in respect of carrying on his business on a profitable basis afford a criterion of reasonableness of rates.

In Canadian Portland Cement Co. vs. G. T. and Bay of Quinte Ry. Cos., 9 Can. Ry. Cas., 209, reference was made to the fact that coal entered largely into the cost of production of the output of the applicants, who had to compete in open markets with similar factories who were also to be accorded more favourable treatment. The Judgment held that the "equality" section of the Act was concerned with traffic conditions and not with the equalization of the costs of production; and it was also further set out, at p. 211:—

> "It is no part of the obligations of the railways, under the Railway Act, to equalize costs of production through lowered rates so that all may compete on an even keel in the same market."

The same position was set out in *Dominion Sugar Co. vs. Can. Freight Assn., 14 Can. Ry. Cas., 188.* There, at *p. 195*, the following language is to be found.

> "In developing his position, counsel for applicant said in substance he desired to average up the total of the raw sugar rates in and the refined sugar rates out. He contended that it was unfair to blanket the refined sugar unless the raw sugar was also blanketed. Coupled with his references to the position said to exist as to waterborne transportation of raw sugar into Montreal, it would appear that this is a contention that aside from any question of the reasonableness of the rates railways are required through reduction of rates to place manufacturers situated in different sections of the country on an even keel as to costs of production. But the Board has already held that this position is untenable: *Canadian Portland Cement Co. v. Grand Trunk and Bay of Quinte Ry. Cos., 9 Can. Ry. Cas., 211.*

The matter was also developed in *Western Retail Lumbermen's Assn. vs. C.P., C.N. and G.T.P. Ry. Cos., 20 Can. Ry. Cas., 155*, where the following language was used; at p 158:—

> "A railway company is not called upon so to adjust its rates that the shipper will always be able to carry on his business at a profit. The rate is only one item in the shipper's costs. The obligation of the railway company is to charge a reasonable rate. It is not called upon, through

> the reduction of a rate, to guarantee that the business will be carried on at a profit. In other words, the needs of the business and the way in which it is carried on are not the measure of the reasonableness of the rate."

The burden is on the railway of maintaining reasonable rates. The needs of the producer as affected by changed commercial conditions do not afford a final measure of what a reasonable rate should be.

The matter was also developed from the standpoint of competition existing at Vancouver and Montreal. As already indicated, reduced rates have been filed, since the hearing, by the railways on the export movement by way of Montreal. At Montreal, so far as local consumption is concerned, the butter production of the Eastern Townships must be borne in mind; as already indicated, what is complained of at Vancouver is the competition of New Zealand butter.

The two phases of competition involved then are water and market competition. So far as competition in general is concerned, it has to be recognized that a carrier is not obligated to meet a lower rate made by a competing foreign road; and failure to meet it is not necessarily evidence of the unreasonableness of the higher rate.

Dominion Sugar Co. vs. Can. Frt. Assn., ut supra. pp. 191, 192.

A toll obtaining on one railway cannot be claimed to be unjustly discriminatory simply because a toll on another, which is put into effect for competitive reasons, is lower, it being within the discretion of the carrier whether it shall meet competition or not.

Edmonton Clover Bar Sand Co. vs. G.T.P. Ry. Co., 17 Can. Ry. Cas., 95.

See also in Re Passenger Tolls, 20 Can. Ry. Cas., 223.

Turning now to the matter of water competition, the Board held in *Blind River Board of Trade Case, 15 Can. Ry. Cas., 146*, that in the case of a compelled toll based on water competition, it is the privilege of the carrier, in its own interest, to meet water competition; but it is not the privilege of the shipper to demand less than normal tolls because of such competition which the railway in its discretion does not choose to meet. The decision in question summarized the decisions of the Board on water competition down to that date.

In *Dominion Sugar Co. vs. G.T., C.P., C.W. and L.E. and Pere Marquette Ry. Cos., 17 Can. Ry. Cas., 240*, it was stated at *pp. 244, 245.*

> "A very elementary principle followed by all rate-regulating commissions is, that while companies may put in rates to meet water competition, they cannot be compelled to do so. . . . . "

See, also, in this connection *Nanaimo Board of Trade vs. C.P.R. Co., 20 Can. Ry. Cas., 224; Boulby vs. Halifax and Southwestern Ry. Co., Ibid 231; and Boards of Trade of Montreal and Toronto and Canadian Manufacturers' Assn. vs. Canadian Freight Assn., 21 Can. Ry. Cas., 77.*

So far, then, as water competition is concerned, it is in the discretion of the railways to make special reductions to meet this, and the fact that a reduction may not be made to meet water competition is not of itself evidence of the unreasonableness of the existing rate, in the absence of evidence pointing thereto.

Evidence indicating the unreasonableness of the existing rate aside from the water competitive situation has not been adduced. As was pointed out at the hearing, pp. 1700-1701:—

> "The ASSISTANT CHIEF COMMISSIONER: It seems to me that this case differentiates entirely from Mr. Symington's case. You say, quite frankly, that from the standpoint of cost of operation you are not attempting to approach the case in that way at all.
>
> "Mr. SCOTT: That is a sort of second string.
>
> "The ASSISTANT CHIEF COMMISSIONER: But you cannot play two strings. We have had no evidence as to the cost of service to the railways.. Your argument is entirely what your clients can afford to pay for the service."

Turning to the question of market competition, in *Montreal Produce Merchants' Association vs. G.T. and C.P.Ry. Cos., 9 Can. Ry. Cas., 232*, the Board has before it a number of complaints involving, *inter alia*, the allegation that cheese and bacon are complementary commodities, and that the price of cheese is regulated in England by that of bacon. It was urged that this should be considered in Canada in fixing the rate basis; and it was held, at *p. 240*, after referring to the English and American authorities, that this was a phase of the competition of markets and that it was in the discretion of the railway whether it should or should not make rates to meet competition of markets.

In a complaint made February 1st, 1910, by the *British Columbia Sugar Refining Company vs. Can. Pac. Ry. Co., 10 Can Ry. Cas., 169, at pp. 172, 173*, the Board ruled:—

> "It is entirely in the discretion of the Canadian Pacific Railway whether it shall meet on the movement of sugar from Vancouver to Winnipeg and other points mentioned in the complaint the rate introduced by the Pere Marquette from Wallaceburg to the same points; and the parties should be so advised.
>
> "This principle does not relieve the railway with the higher rate from attack on its rates as unreasonable; but the fact that it does not reduce its rates to meet the rates of its competitor does not afford any essential measure of the unreasonableness of the rates which it is charging."

Dominion Sugar Co. vs. Can. Frt. Assn., 14 Can. Ry. Cas., 188, at pp. 191, 192.

See also *Canadian Oil Cos. vs. G.T., C.P., and C.N.R. Cos., 12 Can. Ry. Cas., 350, at p. 356.*

It was also held in *Graham Co. vs. Can. Freight Assn., 22 Can. Ry. Cas., 355, at p. 359.*

> "The Board has more than once held that it is within the discretion of the railway whether it shall or shall not make rates to meet the competition of markets."

See the citations therein referred to.

Where, as in the present instance, an application is launched turning upon the question of water competition and market competition, there are two ways of establishing a case:—

(1) Evidence may be adduced showing that the railway rates as rates place an unreasonable burden upon the commodity concerned as compared with other commodities. This has not been done, nor has it been alleged that there is an

unreasonable burden from the railway rate standpoint. As already indicated, what has been emphasized is the question of the need of the producer.

(2) In the absence of an attack upon the reasonableness of the rates, then it may be alleged that the rates are unjustly discriminatory. It has not been established that the rates involved are unjustly discriminatory.

Counsel submitted that having in mind "the necessity of developing mixed farming in Alberta" the rates were excessive. That is to say, the need of diversifying agricultural production was to be taken as a criterion of what the rate should be.

At page 1680 of the evidence, counsel made an argument in this respect, from the standpoint of public policy, as to the necessity of stimulating milk production. At the same time, he frankly stated in this connection, "Of course, this is an argument that should be made more to the railways than to the Board...."

In discussion as to what had taken place in regard to Live stock rates, which were referred to as affording an analogy, the following comment of Commissioner Rutherford, at p. 1701 of the evidence, is pertinent:—

> "COMMISSIONER RUTHERFORD: That is what made me refer to the fact that the live stock reductions were brought about by conference with the railway companies, and I cannot help thinking that if you are going to make a compassionate appeal the proper place to make that appeal is to the railway companies rather than to the Board."

The method of presentation involved in this phase of the matter is not unusual, and on this account a word of comment making clear the nature of the jurisdiction of the Board is justifiable. The Board is given power to deal, *inter alia*, with the reasonableness of the rates. It is nowhere authorized by Parliament to be an arbiter of industrial policy. Opinions may differ as to different lines of develcpment, but the Board's functions in approaching a rate situation are concerned with ascertaining the reasonableness of the rate, not with applying to a rate situation a preconceived opinion as to what type or method of industry should be helped by a modification of the rate.

In other words, while members of the Board may and do, as Canadians, sympathize with policies of economic development which may through increasing diversity lead to greater economic solidarity, it is not their general opinions but the powers conferred on them by the Railway Act which determine what they can do. Very wide powers, it is true, are given under the Railway Act; but the Railway Act is not to be construed as if it were a blank cheque to be filled in as members of the Board see fit. It is not the Board's function, as delegated by Parliament, to make rates to develop business, but to deal with the reasonableness of rates either on complaint or of its own motion.

British Columbia News Co. vs. Express Traffic Association, 13 Can. Ry. Cas., 176, at p. 178.

"Looked at from the standpoint of an experimental rate for the development of business, it must be recognized that an express company in putting in of its own volition a low rate basis to develop business has a greater initial discretion than is possessed by the Board through the medium of its Orders."

Ibid.

See also *Roberts vs. C.P.R. Co., 18 Can. Ry. Cas., 350, at p. 355.*

Reference may also be made to application of the *Red Deer Valley Coal Operators' Assn.*, for consideration of rates on coal from Alberta, Board's file 28678.5, published in *Board's Orders and Judgments, Vol. 10, p. 66, at p. 70.*

In another connection, when it was alleged that international competition had been increased because the Dominion Government had removed the duty, and it was asked that there should be a decrease in Canadian railway rates to offset this, the Board used the following language:—

> "In the case before us, while, personally, I have sympathy with the 'territorial sectarianism' which desires industries to be established in one's own country in preference to a foreign country, the matter of sympathy affords no justification for the reduction asked. The existing rate not having been shown to be unreasonable, it is in the discretion of the Canadian railways whether they shall meet these rates and conditions which are, in great degree, due to trade competition, situation advantage, and remission of duties."

Canadian Oil Cos. vs. Grand Trunk, Canadian Pacific and Canadian Northern Ry. Cos., 12 Can. Ry. Cas., 350, at p. 358.

While sympathizing with the conditions involved, the position is that it has been absolutely necessary, on account of the conditions with which all Canadians are acquainted, to increase freight rates. Since the increases were made in 1920, there have been from time to time such decreases in rates as the Board has found justifiable. The commodity herein involved has shared in the general decreases. In addition, as pointed out, a special revision has been made on the movement to Montreal.

On full consideration, it does not appear that at the present time and on the record before the Board a further reduction can be directed.

APPLICATION OF NATIONAL DAIRY COUNCIL OF CANADA FOR CANCELLATION OF 20 PER CENT INCREASE IN EXPRESS RATES ON CREAM

Judgment of Chief Commissioner, November 21, 1922, concurred in by Assistant Chief Commissioner, Commissioners Boyce, Rutherford and Lawrence.

By General Order of this Board No. 327, dated the 2nd day of February, 1921, the express companies of Canada were allowed to increase their rates and charges as therein set forth, among said increases being a 20 per cent increase on the rates then charged for fish, fruit, vegetables, and cream. In November, 1921, a formal application was made to this Board asking it to reconsider its decision in so far as cream was concerned and place the rates on that commodity back to the point at which they were before the order of February 2, 1921. This application was refused, and the National Dairy Council appealed to the Privy Council of Canada under the provisions of section 52 of the Railway Act, 1919.

The important part of the decision of the Privy Council as found at P.C. 455, dated March 17, 1922, is as follows:—

> "There is no appeal from the thirty-five per cent, and twenty-five per cent, increases allowed on the first class and second class rates, and the only matter on appeal is the twenty per cent, increase on the class of express 'commodities,' which include cream. If the rate on cream could be dealt with by itself, it would be comparatively simple, but cream is only one of a variety of goods or merchandise classed for rating pur-

poses as 'commodities', and consisting at least of fruit, fish, vegetables, and cream. The flat increase of twenty per cent, allowed by the Board on February 2, 1921, applies equally to whatever comes within the 'commodity' group, and for that reason it would appear that if there is to be a reduction in the rate on cream, that there should be a further hearing by the Board for the purpose of ascertaining whether or not there should be a reduction on the various other classes of merchandise comprised in the 'commodity' group, and the Committee of the Privy Council is of opinion that in view of the material fall off in the market value of cream a corresponding reduction, if possible, should be made in the express freight rates, and if after hearing further evidence in regard to the various classes of goods included in 'commodities', the Board is of opinion that a general reduction of the 'commodities' rates cannot consistently be made, then and in such case a specific rate should be fixed for the subject matter of this appeal and along the lines hereinbefore suggested. The Committee of the Privy Council for the purpose above mentioned advised that this appeal be referred to the Board for further consideration."

Acting on the direction of the Privy Council, the case was again heard by this Board at Ottawa on the 20th and 21st days of April, 1922, at which hearing the express companies of Canada, the National Dairy Council, and the fish industries were represented by counsel. No person appeared on behalf of the producers and dealers in fruit and vegetables although 152 different persons and firms all over Canada had been notified. Mr. MacIntosh, of the Fruit Branch of the Department of Agriculture, appealed, but took no part in the proceedings, and, therefore, I take it for granted that the producers and dealers in these commodities have no fault to find with present conditions. The hearing consisted entirely of evidence pro and con as to the rates on fish and cream.

As I read the Order in Council, I am forced to the conclusion that His Excellency in Council expressed very strong desire that the rates on cream as well as the other commodities therein mentioned should be reduced, if possible, in view "of the material fall off in the market value", and this phase of the case was argued very strenuously by the representatives of the fish and cream industries and has been before the Board on a number of occasions during the past two years.

As the opinion of this Board upon this particular phase of rate making was so ably expressed by Assistant Chief Commissioner McLean in his recent judgment on the application of the National Dairy Council of Canada re freight rates on butter east and west of Calgary and Edmonton (file No. 30686.3), I cannot do better than quote that portion of the judgment in full, as follows:—

> "The matter as presented is not based on the contention that the rates are out of line on butter as compared with other commodities, or that butter is paying an inordinate proportion of the increase in rates, which was found necessary, as compared with the burden on other commodities. The reasonableness of the rates as railway rates, bearing in mind the question of railway costs, was not attacked. The application was, in substance, the contention that because the selling price of butter had gone down since the rates were increased the rates should be accordingly reduced.
>
> "The principle of charging what the traffic will bear is one of the factors which has been recognized in connection with rate regulation. At the same time, it has not been accepted as the only factor. If a

reduction in the price of a commodity is to automatically bring with it a reduction in the rate, it would logically follow that an increase in the price of a commodity would automatically carry with it an increase in the rate. This principle has not been accepted by the Board as valid. The mere ability of an article to pay, aside from the question of whether the increase in revenue to be derived from the increased rate is justifiably necessary, is not a conclusive justification for an increase in rate. In the increase in rates which Canada has had to face, the increase in rates was not made at the same time as prices went up. A considerable period of time elapsed before the rates were increased, and the justification for the increase was the increased cost to which the railways were subjected.

"In the application, there is apparent the idea that the needs of a shipper in respect of carrying on his business on a profitable basis afford a criterion of reasonableness of rates."

He then cited more than a dozen cases decided by this Board showing that no such principle has ever been adopted heretofore, and it seems to me it is unnecessary to go further in showing that it should not be adopted at the present time, because if any such principle were to be laid down, every time the value of a commodity increased or decreased, there would have to be a corresponding increase or decrease in the freight or express rate. While the value of a commodity has always played some part in rate fixing, yet, in my opinion, an important factor should be the cost to the transportation company for adequately performing the service. Nevertheless, as His Excellency the Governor General in Council had asked this Board to hear further evidence in regard to the various classes of goods included in "commodities", a comprehensive investigation was held on the question of the transportation of fish by express, no special reference being made to fruit or vegetables for the reasons hereinbefore explained.

The representatives of the fish industry submitted evidence showing a reduction in the value of the article, claiming that for that reason alone they were entitled to a reduction in the rate. The express companies gave evidence and filed exhibits showing the cost of transporting fish to different parts of Canada as compared with the rates received from the business.

As is well known, the railway companies furnish the express and refrigerator cars and transport them on their passenger trains, and, in the case of the Canadian Pacific Railway Company, they receive from the Dominion Express Company for this service an amount equal to 1½ times the regular first class freight rate, based upon the actual weight on the several commodities carried. The Canadian National Express Company pays to the Canadian National and Grand Trunk systems 50 per cent of the total receipts from the express business, and pays to the National Trans-continental and Grand Trunk Pacific Railways 40 per cent of the gross receipts, retaining the other 60 per cent for their services.

The recognized method by which they arrive at the cost of carriage, both in Canada and the United States, has been the cost to the railway companies of transporting an express or baggage car one mile. Slightly different methods have been followed in Canada and the United States, but the results have been practically the same in both countries. The method adopted in the United States was developed by the Interstate Commerce Commission. The method followed in Canada for some years past is what is called the Moule method, being a computation arrived at by the late Mr. Moule, Comptroller of the Canadian Pacific Railway Company, who was probably one of the best railway statisticians on the continent, and evidence was given by his successor, Mr. Lloyd, of the Canadian Pacific Railway Company, that he had compiled a statement of the business of the Canadian Pacific Railway for 1921, based upon the Moule formula, in which he found (Exhibit No. 16) that the net operating cost per express car mile was

34·41 cents. To this he added a proportion for taxes, fixed charges, and dividends, amounting to 8·75 cents, and a ratio for a margin of 2 per cent on common stock of 1·17 cents, making the amount which he contended the Canadian Pacific Railway should receive for each express car mile 44·33 cents, but for the purposes of this investigation the important part is the fact that the actual operating cost amounted to about 34½ cents per car mile. He stated that the total revenue per car mile received by the Canadian Pacific Railway Company from the Dominion Express Company was 39·86 cents per car mile, thus leaving something over 5 cents per car mile, over and above actual operating costs.

Mr. J. F. Aitchison, auditor of disbursements for the Grand Trunk Railway Company, stated that he had prepared a statement of the cost per express car mile on that system, based upon the Moule formula, with which he was very familiar, and for that road the actual cost would be 40·312 cents per car mile (Exhibit No. 17), and Mr. A. P. Mallory, Statistician of the Canadian National Railways, stated that he had prepared a statement for the Canadian National Railways upon the same formula in which he found that the cost per car mile would be 42·711 cents (Exhibit No. 18).

Mr. C. N. Ham, Secretary of the Express Traffic Association, gave evidence on the carriage of fish from Mulgrave to Montreal and Ottawa and also from Prince Rupert to Montreal, and, as both these movements are the most characteristic of the long haul fish business in Canada and are both exclusively upon Canadian National lines, in his figures he took the Canadian National costs as his basis. He showed that, on a movement from Mulgrave to Montreal, a distance of 980 miles, the revenue on a 20,000 pound car, net weight, of fish at $1.80 per 100 pounds would amount to $360, and the cost of hauling that car on the Canadian National Railways on the basis of Mr. Mallory's figures would be $380.12, or $20.12 more than the total revenue received by the express company for the service (p. 4351). In this case, the express company would pay one-half the total revenue to the Canadian National Railways. In other words, the railway company would receive $180 for transporting the carload of fish from Mulgrave to Montreal, and, according to the figures of their Statistician, the actual cost to the railway company would be $380.12, the result being that, while the express company would receive a reasonable amount for their share of the transportation, the Canadian National Railways would receive less than one-half the actual cost of transporting the goods; and he also stated that this took no account whatever of the cost of the empty return movement, which was stated to be considerable, although we have no actual evidence of the percentage as compared with the total loaded movement outward.

It also appeared that, while the majority of the fish from this particular point moved in carload lots, yet l.c.l. lots were forwarded on exactly the same rate, and, if 50 per cent of the full movement was required for the return of the empties, it would bring the cost to the railway company up to $570, for which they would receive from the express company ony $180.

Mr. Ham also gave a like comparison on a carload of fish from Prince Rupert to Montreal, a distance of 3,124 miles, with a carload of 25,000 pounds for which the express company would receive a total of $1,070. Figuring the cost to the railway company on Mr. Mallory's basis, it would amount to $1,334.26, but the railway company would receive from the express company only $535. If we added 50 per cent for the empty return movement, it would bring the total cost up to over $2,000, or nearly four times as much as the Canadian National Railways actually receives (p. 4356).

Mr. Ham also filed a number of exhibits, numbered from 24 to 27 inclusive, showing the express rates from and to the important centres in Canada and

showing a comparison between the express rate on fish, which, it must be remembered, is transported on passenger trains, with the first class freight rate and the first and second class express rates, Exhibit No. 24, which is extended herein, is from Mulgrave to various points between Quebec and Windsor, both inclusive, and shows that the present fish rate runs from 31 per cent to 39 per cent of the first class express rate and from 138 per cent to 185 per cent of the first class freight rate.

EXHIBIT No. 24

STATEMENT showing comparison of express rate on fresh fish with freight and express class rates from Mulgrave, N.S.

To	Express Rates			Fresh Fish Rate (Net Weight)	Per cent Fish Rate is of 1st Class Freight Rate	Per cent Fish Rate is of 1st Class Express Rate	Per cent Fish Rate is of 2nd Class Express Rate
	1st Class Freight Rate	1st Class	2nd Class				
Quebec	108	485	335	150	138·88	31	45
Montreal	115	540	375	180	156·52	33	48
Ottawa	122	595	410	190	155·73	32	46
Kingston	125½	640	445	210	167·33	33	47
Peterboro	133	660	460	210	157·89	32	46
Toronto	137	680	475	210	153·28	31	44
Hamilton	140	700	485	230	164·28	33	47
London	155	730	505	240	154·83	33	48
Windsor	162	770	535	300	185·18	39	56

This is characteristic of other exhibits showing the rates from and to different parts of Canada, all showing about the same results.

All the witnesses for the express companies were cross-examined by counsel for the applicants, but no evidence was given contradicting any of that hereinbefore referred to.

While probably the evidence upon the question of cost to the transportation companies should be sufficient, yet the Board was anxious to know something more about the fish business in Canada, and, therefore, of its own motion, asked a number of questions tending to show the amount paid the producer, that paid by the consumer, and the portion of the spread accounted for by express rates, and, while there was much evidence given, I think probably that with reference to steak cod would be characteristic of the whole, although possibly the spread would be a little greater than it would with haddock or some of the cheaper fishes, but substantially the same conditions prevail in the handling of all the different kinds of fish that play a part in this investigation.

The witnesses from whom this information was received were W. R. Spooner, wholesale fish merchant of Montreal; D. J. Byrne, General Manager, Leonard Fisheries, Limited, Montreal; A. H. Brittain, Managing Director, Maritime Fish Corporation, Montreal; and G. W. C. Binn, an employee of the Fish Department of the Canadian Packing Company, Ottawa. The manner of handling the fish is described by Mr. Spooner on pages 4162, 4163, 4164, and 4165 of the evidence, and while it would be too long to quote in full, yet the substance, so far as refers to codfish, is as follows;—

The fish is produced partly by the big firms themselves, either by operating boats or by employing others to do the work for them under contract, which

was referred to as "grubstaking", which means that the company makes advances to the fishermen to enable them to carry on the business, but, no matter whether the fish was produced by the ordinary fisherman or by the company, it was admitted that the price to the producer at a shipping point in the Maritime Provinces would be from 4 cents to 4½ cents per pound, as I understand it, with the head on (p. 4162), although that phase of it is somewhat uncertain from the evidence. The fish is then sold by the fish company, called the "producer", to an intermediary in Montreal, at an average price of 7½ cents per pound, which included express charges, which amount to 1·8 cents to Montreal and 1·9 cents to Ottawa. It will thus be seen that, while the company or producer pays an average of 4¼ cents to the fisherman and 1·8 cents express rate, or a total of 6·05 cents, it receives 7½ cents for the goods in Montreal, or a spread just a fraction under 1½ cents per pound. The intermediary sells to the retailer at from 8 cents to 9 cents a pound (p. 4164). Taking this on an average of 8½ cents, it means another cent spread, or, if sent to Ottawa, $\frac{1}{10}$ of a cent less, because the express rate is that much greater than to Montreal, and, according to the evidence of Mr. Binn (p. 4309), the consumer was paying 16 cents for steak cod, which, of course, would mean with the head severed. I do not know to what extent this would reduce the spread, but probably on an average it might be from 1 cent to 2 cents.

The express rate, before the judgment of February, 1921, on fish from the Maritime Provinces to Montreal was 1½ cents per pound, and, as it was increased to 1·8 cents, the increase would amount to $\frac{3}{10}$ of a cent per pound, and, when we consider that fish which netted the producer 4¼ cents per pound on an average, with 1·9 cents express rate to Ottawa, costs the consumer from 14 cents to 15 cents a pound, one can imagine what proportion of the $\frac{3}{10}$ of a cent increase, if remitted, would go to either producer or consumer of this very important commodity. While the more detailed information was not given regarding haddock and other fishes, yet the manner of handling is the same as with respect to cod and the spread between producer and consumer is in about the same proportions.

Therefore, considering this question either from the standpoint of the cost to the transportation companies for carrying the traffic or from the benefits to be derived by either producer or consumer, I fail to see where this Board would be justified in changing the rate fixed by this Board in its order of February, and, so far as fish is concerned, the rate should remain as it is until such time, which we all hope will soon arrive, when there may be a general reduction in express rates in Canada.

His Excellency the Governor General in Council, in referring to cream, stated as follows:—

> "and the Committee of the Privy Council is of opinion that in view of the material fall off in the market value of cream a corresponding reduction, if possible, should be made in the express freight rates.."

It would be physically possible to carry cream absolutely free, but I cannot imagine His Excellency wished to convey any such idea, and, therefore, I must construe that sentence to mean *if possible following any well recognized principle of rate regulation*, and, therefore, in order to meet the views of the appellate court, I think we must consider whether it would be possible, following any well recognized principles, to make a reduction of the whole or even a part of the increase in cream in the judgment of 1921.

Evidence on this particular phase of the case was given by Mr. McDonnell, General Manager of the Dominion Express Company, Mr. Burr, Traffic Manager

of the same company, and Mr. Muir, General Manager of the Canadian National Express Company. In arriving at a conclusion as to whether a rate can be reduced or not, or even whether the same be reasonable, any rate-making tribunal must take some note of the business methods employed by the company in carrying on the business, the wages paid to its employees, and, generally, must be satisfied that the business is conducted in a reasonably economical and businesslike manner, and, while this Board has no jurisdiction over the wage question, yet it was very fully discussed by both Messrs. McDonnell and Muir (p. 4248 and p. 4265 respectively).

Mr. McDonnell stated as follows (p. 4248):—

"Q. You say you have done everything possible to bring about economy in administration. What have you done?

"A. We have reduced our staff, and I think we have gotten a greater efficiency from the staff we have retained. We have checked very carefully all our expenditures and reduced them; we have gotten along without many things we would have been glad to purchase if we had the money.

"Q. Give some of them.

"A. Additional buildings and facilities.

"Q. Can you give us any further details of how you economize, or how you have economized, or is a general statement the best you can give us?

"A. I think I shall rest on the general statement that as vice-president and general manager of the company I have watched every expenditure that we could control and have kept it at the lowest possible figure consistent with the service the public demands of us.

"Commissioner BOYCE: You have maintained the efficiency of the service?

"A. Yes sir."

And Mr. Muir stated (p. 4265) as follows:—

"Q. Before passing to the particular people with whom you made the comparison, what is your own opinion as to the reasonableness of the present wages; in other words, the express companies are before the Board justifying the existing rates. As everybody knows, the cost of living has come down to some considerable extent during the past year. Having regard to that, Mr. Muir, do you think that the rates of wages of your men could be reasonably lowered, so as to assist the companies in making different express rates, or what is your opinion upon that subject?

"A. I do not think they could be reasonably lowered beyond the present point, with any degree of fairness to the employees, in our desire to obtain efficiency of service and the contentment of our employees, having them satisfied with conditions, which all tends to economy."

In addition to this, both companies filed statements showing the wages paid to the several classes of employees below that of route agent, which would include about 95 per cent of the total employees of the companies, and showed that they were not in excess of the wages paid to men performing similar services by some of the large departmental stores of Canada. Counsel for the applicants cross-examined on all these statements, but in conclusion expressed no opinion that they were in any cases higher than the services warranted, and, therefore, I must conclude that these companies are intelligently and economically operated, and any conclusions arrived at herein are based upon such premises.

It must also be remembered that the commodity rates on cream are the lowest of any express rates in existence in Canada to-day. On this point the evidence of Mr. Burr, Traffic Manager of the Dominion Express Company (p. 4326), is as follows:—

> "I think I should mention that this traffic, the cream traffic, has had the benefit of specific rates for a great many years, which specific rates are very much lower than any other commodity rate in existence, any other commodity rate applying on our lines. They have had the benefit of this concession, this special advantage, for over thirty years. In those thirty years there has been but one increase, and that was in February, 1921.
>
> "The CHIEF COMMISSIONER: Have there been any decreases in those thirty years?
>
> "A. There have been adjustments, which amounted to decreases."

Mr. Burr stated that they had made a complete study and analysis of the cream movement by the Dominion Express Company of the 18th day of May, 1921, explaining they had taken this day not for any special reasons but as a fair average of the movement of this commodity. The 18th day of May was in the middle of the week, in the middle of the month, a month not when the cream movement was at its height nor at its minimum, but, generally speaking, a fair average day. The result of this study was codified in Exhibit No. 22, which is as follows (p. 4329):—

EXHIBIT No. 22

May 18, 1921

Cans.	Weight	Express Rev. Actual	2nd Class	Freight 1st class lb. rates	Freight 1st Class at Min.
(5) 2,039	122,340	598·85	1,369·91	645·81	1,120·06
(8) 1,389	138,900	537·65	1,320·05	718·95	769·78
(10) 142	17,040	63·67	161·22	86·78	87·89
3,570	278,280	1,200·17	2,851·18	1,451·54	1,977·73

Ratio to 2nd class.....42 per cent
Ratio to 1st class frt.....82·6
Ratio to 1st class freight and min.....60·6

Average weight per can.....77·66 lbs.
Average charge per can by express (actual).....33·6 cents.
Average charge per can by express (2nd class).....79·8 "
Average charge per can by freight (1st class lb. rates).....40·6 "
Average charge per can by freight (with min.).....55·3 "

Average charge per 100 lbs. by express (actual).....43·1 "
Average charge per 100 lbs. by express (2nd class).....102·4 "
Average charge per 100 lbs. by freight (1st class lb. rates).....52·1 "
Average charge per 100 lbs. by freight (with min.).....71·0 "
Charge by express at 2nd class.....2,851·18— 70 per cent of 1st class express charge.
Estimated charge at 1st class.....4,073·11
Actual charge by express.....1,200·10— 29·46 per cent of 1st class.
Previous charge by express.....1,000·00— 24·5 per cent of 1st class
Charge by freight applying minimum charges....1,077·73—164·7 per cent of charge by express
Charge by freight at pound rates.....1,451·54—120·9 per cent of charge by express

It will, therefore, be seen that the total number of cans handled on that day was 3,570, the weight 278.280 pounds, and the actual revenue received, $1,200.17. If this same quantity of cream had moved on the second class express rate, it would have produced a revenue of $2,851.18. If moved by

first class freight on the actual number of pounds, the revenue would have been $1,451.54, and if moved by freight on the first class on mimimum rates for the quantities as carried, the revenue would have been $1,977.73. In other words, the actual money received for the carriage of this cream was only about 6/7 of what a railway company would have received had the same been carried by first class freight on the actual number of pounds transported. A continuation of the same Exhibit was filed, showing further explanations and recapitulations in detail with 5, 8, and 10 gallon cans, but, as they produce the same results, it is unnecessary to repeat them here.

It was shown that the charges for transporting an 8 gallon can of cream one hundred miles, which can contains about 80 pounds of cream and 16 pounds for the container, under present rates is 43 cents with 6 cents for the return of the empty can, making a total for the 8 gallons of cream of 49 cents, or something less than ½ cent a pound on the combined weight of the cream and can outward and the can inward, whereas the old rate was 36 cents outward and 5 cents for the return of the empty. It was admitted by all parties at the hearing that the average haul would be about 100 miles, that the average butter fat would be about 25 per cent, or 20 pounds, in an 8 gallon can, and that, at the date of the hearing, the butter fat was worth from 36 cents to 37 cents a pound, which, at the lower figure, would amount to $7.20, the net result being that a commodity worth $7.20, weighing 96 pounds outward and 16 pounds inward, is being carried by the express companies on a passenger train a distance of 100 miles for 49 cents, or just a fraction over 6 cents per gallon, and that the increase complained of amounts to 8 cents on a commodity worth at least $7.20; and, in addition to this, it was also admitted that a percentage not actually stated, but a considerable percentage of this cream, known as "sweet cream" and used for household and ice cream purposes, etc., was worth 55 cents per pound butter fat instead of 36 cents, which would increase the value of the commodity and to that extent reduce the ratio of rate received by the express company for its carriage. I am again compelled to wonder how much of this 8 cents, if remitted, would ever accrue to the benefit of either producer or consumer.

During the argument, Mr. Scott, counsel for the applicant was asked by myself the following question (p. 4447):—

> "The CHIEF COMMISSIONER: Any way, you can understand the information that I would like to have, or rather the phase of the question I am very much concerned in, because I appreciate this has been sent back here by the Court of Appeal in which they have very clearly expressed their wish, and I would like to have you point out to us how we can consistently comply with that wish."

To which he answered as follows:—

> "Mr. SCOTT: If you come to the conclusion that every pound of express that is moved by an express company must bring in a profit to the company, and if the evidence given by the express company is correct, I do not see how you can do it."

But he also expressed his opinion on p. 4443 as follows:—

> "I would like also to call the attention of the Board to the fact that the revenues of the companies are extremely small in the case of fish or milk. Their shipments are small in percentage, and, bearing in mind the volume and their revenues, the 20 per cent we ask on fish or cream will have no appreciable effect at all upon the revenues of the

companies. If it was a larger amount and a more serious matter, perhaps the other arguments I urge as to why the reduction should be made might not be given the weight that I submit they should be given in this case.

"If it meant anything more serious to the companies, it might be another matter, but in this particular case where it means nothing as far as the companies' finances are concerned whether they get this 20 per cent or not, yet where it means so much to the producers in both cases, and where it means the stimulation of a traffic which undoubtedly must be a benefit to the express companies, because they maintained these commodity rates long before the Board of Railway Commissioners was established, when they had it in their hands to do as they liked, and in that way it must be assumed that they want this business to continue, that is must be continued, that the business will be obtained at some time, even though not at the moment, therefore, it should not be too harshly dealt with."

With this argument and conclusion, I am unable to agree, because, if carried to its logical conclusion, any article which moved in very small quantities should be carried at a non-paying rate simply because in the end it would amount to very little as compared with the total revenues of the companies. It seems to me the proposition has only to be stated in order to refute itself, because an express company is the means of transportation provided under our railway system of carrying innumerable small articles on passenger trains for the purpose of expediting their movement and delivery, and, once such a principle were established, it would have to be universally followed.

When we consider that cream is carried at the lowest express rate of any commodity in Canada to-day, that it is much lower than the first class freight rate, that there has been but one increase of 20 per cent in thirty years or more, and that no more cogent justification can be advanced for the remission of this increase of 20 per cent than has been presented in this case, I am forced to the conclusion that it is *not possible* from any rate regulating standpoint to comply with the request of the applicants in this case, notwithstanding the wish expressed by His Excellency in Council, and, therefore, I think the application should be dismissed

APPENDIX "B"

REPORT OF THE CHIEF TRAFFIC OFFICER OF THE BOARD, W. E. CAMPBELL, FOR THE YEAR ENDING DECEMBER 31, 1922

SIR,—I have the honour to submit a memorandum of the freight, passenger, express, telephone, telegraph, and sleeping and parlour car schedules filed with the Board from November 1, 1904, when, by order of the Board, under the authority of section 311 of the Railway Act, 1903, the railway companies commenced filing their tariffs, to December 31, 1921; and from January 1, 1922, to December 31, 1922, inclusive; also, of the more important orders relating to traffic, issued by the Board to December 31, 1922:—

SCHEDULES RECEIVED FROM NOVEMBER 1, 1904, TO AND INCLUDING DECEMBER 31, 1921

Freight—			
Local tariffs	16,702		
Supplements	33,807		
		50,509	
Joint tariffs	36,380		
Supplements	106,488		
		142,868	
International tariffs	129,783		
Supplements	395,261		
		525,044	
			718,421
Passenger—			
Local tariffs	17,143		
Supplements	21,958		
		39,101	
Joint tariffs	15,416		
Supplements	24,987		
		40,403	
International tariffs	29,183		
Supplements	58,529		
		87,712	
			167,216
Express—			
Local tariffs	6,023		
Supplements	57,233		
		63,256	
Joint tariffs	6,275		
Supplements	23,016		
		29,291	
International tariffs	5,976		
Supplements	6,961		
		12,937	
			105,484
Telephone—			
Local tariffs	2,528		
Supplements	1,992		
		4,520	
Joint tariffs	3,496		
Supplements	26,202		
		29,698	
International tariffs	429		
Supplements	9,719		
		10,148	
			44,366
Telegraph—			
Tariffs	173		
Supplements	200		
		373	
			373
Sleeping and Parlour Car—			
Local tariffs	187		
Supplements	243		
		430	
Joint tariffs	170		
Supplements	292		
		462	
International tariffs	256		
Supplements	759		
		1,015	
			1,907
Combined totals, all Schedules			1,037,767

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SCHEDULES RECEIVED FROM JANUARY 1, 1922, TO AND INCLUDING DECEMBER 31, 1922

Freight—			
Local tariffs	1,533		
Supplements	3,308		
		4,841	
Joint tariffs	4,465		
Supplements	14,286		
		18,751	
International tariffs	12,674		
Supplements	35,856		
		48,530	
			72,122
Passenger—			
Local tariffs	1,264		
Supplements	1,607		
		2,871	
Joint tariffs	1,688		
Supplements	2,380		
		4,068	
International tariffs	3,150		
Supplements	5,898		
		9,048	
			15,987
Express—			
Local tariffs	55		
Supplements	186		
		241	
Joint tariffs	102		
Supplements	961		
		1,063	
International tariffs	137		
Supplements	353		
		490	
			1,794
Telephone—			
Local tariffs	132		
Supplements	462		
		594	
Joint tariffs	416		
Supplements	3,512		
		3,928	
International tariffs			
Supplements			
			4,522
Telegraph—			
Tariffs	8		
Supplements	11		
		19	
			19
Sleeping and Parlour Car—			
Local tariffs	19		
Supplements	38		
		57	
Joint tariffs	52		
Supplements	77		
		129	
International tariffs	40		
Supplements	116		
		156	
			342
Combined total, all Schedules			94,786
Grand Total			1,132,553

Summary of Traffic Orders of General Interest Issued During the Year Ended December 31, 1922

General Order No. 354, January 4, 1922.—Requires all railway companies subject to the jurisdiction of the Board to file tariffs showing a charge of one cent per 100 pounds for the stop-over privilege on all grain for storage, milling, malting, or other treatment; such privilege to be granted for all grain produced in Canada, subject to a reasonable charge for out-of-line hauls.

No. 31971, January 4, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Schomberg Telephone Company, operating in the Counties of Simcoe and York, Ont.

No. 32025, January 14, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Canadian Telephone Company, operating in the Counties of Compton and Wolfe, Que.

No. 32026, January 14, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Dawn Municipal Telephone System, operating in the Counties of Lambton and Kent, Ont.

No. 32027, January 14, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Elmsley South Rural Telephone Company, operating in the Counties of Leeds and Lanark, Ont.

No. 32028, January 14, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Hazeldean Rural Telephone Company, operating in the County of Carleton, Ont.

No. 32029, January 14, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Grattan Number Seven Telephone Association, operating in the County of Renfrew, Ont.

No. 32030, January 14, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and La Compagnie de Telephone d'Yamaska, operating in the County of Yamaska, Que.

No. 32048, January 21, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the McKillop, Logan & Hibbert Telephone Company, operating in the Counties of Huron and Perth, Ont.

No. 32063, January 24, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Normanby Telephone Company, operating in the County of Grey, Ont.

No. 32069, January 25, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Ayton Telephone Company, operating in the County of Grey, Ont.

No. 32070, January 25, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Minto Rural Telephone Company, operating in the County of Wellington, Ont.

No. 32091, February 4, 1922.—Approves Standard Freight Mileage Tariff, C.R.C. No. 672, of the Chatham, Wallaceburg & Lake Erie Railway.

No. 32105, February 6, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Camden Independent Telephone Company, operating in th County of Lennox and Addington, Ont.

No. 32106, February 6, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Ravenscliffe Telephone Company, operating in the District of Muskoka, Ont.

No. 32107, February 6, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Harvey Municipal Telephone System, operating in the County of Peterborough, Ont.

No. 32108, February 6, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Selby Telephone Company, operating in the Counties of Lennox and Addington and Hastings, Ont.

No. 32123, February 10, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and La Compagnie de Telephone Rurale de St. Angele de Laval, operating in the County of Nicolet, Que.

General Order No. 357, February 14, 1922.—Amends General Order No. 354 with respect to charge for out-of-line haul on Western grain moving all-rail or lake-and-rail to milling points in eastern Canada.

No. 32160, February 27, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Mornington Municipal Telephone System, operating in the Counties of Perth and Waterloo, Ont.

No. 32162, February 27, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Union Telephone Company, operating in the County of Wellington, Ont.

No. 32173, February 27, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Apsley Telephone Company, operating in the County of Peterborough, Ont.

No. 32178, March 1, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Korah Central Telephone Company, operating in the District of Algoma, Ont.

General Order No. 360, March 6, 1922.—Requires railway companies to amend their tariffs to provide for the allowance, at points east of Fort William, of fifty cents per car door of not less than twenty-one square feet, when furnished by shippers of lime, in bulk.

No. 32194, March 7, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the East Middlesex Telephone Company, operating in the Counties of Middlesex, Oxford, and Perth, Ont.

No. 32195, March 6, 1922.—Defines the meaning of sections 1 and 2 of General Order No. 234, dated May 22, 1918, with respect to milling in transit arrangements to destinations east of Port Arthur, Fort William, and Armstrong, Ont.

No. 32196, March 8, 1922.—Suspends Algoma Central & Hudson Bay Railway Company's tariff C.R.C. No. 585 showing increases in the switching rate on coal from the New Ontario Coal Company's dock to the Canadian Pacific Railway at Sault Ste. Marie, Ont.

No. 32197, March 7, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Corporation of the Township of Maidstone, operating in the County of Essex, Ont.

No. 32211, March 9, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Urban & Rural Telephone Company, operating in the Counties of Kent, Lambton, and Middlesex, Ont.

No. 32212, March 9, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Dunwich & Dutton Telephone Company, operating in the Counties of Elgin and Middlesex, Ont.

No. 32221, March 20, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Tyendinaga Municipal Telephone System, operating in the County of Hastings, Ont.

No. 32233, March 27, 1922.—Approves Standard Mileage Freight Tariffs, C.R.C. No. E-390 and C.R.C. No. E-393, of the Canadian National Railways.

No. 32247, March 27, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Shakespeare Telephone Company, operating in the District of Sudbury, Ont.

No. 32248, March 27, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Iron Bridge Telephone Company, operating in the District of Algoma, Ont.

No. 32253, March 31, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Wakefield & Masham Telephone Company, operating in the Counties of Ottawa and Pontiac, Que.

No. 32286, April 10, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Glengarry Telephone Company, operating in the Counties of Glengarry and Prescott, Ont.

No. 32311, April 19, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Harwood Rural Telephone Company.

No. 32320, April 19, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Corporation of the Township of Rochester, operating in the County of Essex, Ont.

No. 32337, April 25, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Victory Telephone Limited, operating in the County of Chambly, Que.

No. 32347, May 1, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Scotch Line & Stanleyville Telephone Company, operating in the County of Lanark, Ont.

General Order No. 363, May 10, 1922.—Approves proposed Supplement No. 19 to the Canadian Freight Classification No. 16.

No. 32404, May 17, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the McKillop Municipal Telephone System, operating in the County of Huron, Ont.

General Order No. 364, May 23, 1922.—Prescribes mileage rates to apply on agricultural limestone or stone dust east of Port Arthur, Fort William, and Armstrong, Ont.

No. 32422, May 23, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Ivy-Thornton Telephone Company, operating in the County of Simcoe, Ont.

No. 32441, May 29, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Township of Hay, operating in the County of Huron, Ont.

No. 32442, May 29, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Ernestown Rural Telephone Company, operating in the Counties of Lennox and Addington and Frontenac, Ont.

No. 32448, May 31, 1922.—Suspends American Railway Express Company's tariffs C.R.C. Nos. 1333, 1341, and 1344, and item No. 1 in Express Traffic Association tariff C.R.C. No. E.T. 732, as applicable to rates on fruit and vegetables moving from Ontario points

No. 32468, June 5, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Stroud Telephone Company, operating in the County of Simcoe, Ont.

No. 32469, June 2, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and Le Telephone de St. Sebastien d'Iberville, operating in the Counties of Iberville and Missisquoi, Que.

No. 32471, June 2, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Leeds and Grenville Independent Telephone Company, operating in the Counties of Leeds and Grenville, Ont.

No. 32477, June 5, 1922.—Disallows Algoma Central & Hudson Bay Railway Company's tariff C.R.C. No. 585 showing increases in the switching rate on coal from the New Ontario Coal Company's dock to the Canadian Pacific Railway at Sault Ste. Marie, Ont.

No. 32487, June 13, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the St. Marys, Medina & Kirkton Telephone Company, operating in the Counties of Huron, Perth, Middlesex and Oxford, Ont.

No. 32511, June 19, 1922.—Requires the American Railway Express Company to publish and file a local rate on fruit and vegetables from Fenwick, Ontario, to Hamilton, Ontario, of forty cents per 100 pounds, and rescinds Order No. 32448.

General Order No. 365, June 24, 1922.—Specifies time in which railway companies will make periodical returns to the Board in respect of the carriage of traffic at free or reduced rates.

No. 32547, June 26, 1922.—Suspends Bell Telephone Company's tariff C.R.C. No. 5383, showing increased telephone rates in the City of Windsor, Ont.

No. 32549, June 27, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Fourth Line of Bathurst Telephone Association, operating in the County of Lanark, Ont.

No. 32550, June 27, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Tiny Municipal Telephone System, operating in the County of Simcoe, Ont.

General Order No. 366, June 30, 1922.—Requires railway companies in Canada to file tariffs, effective August 1, 1922, showing reduced rates on various commodities, and reduces the standard freight mileage scale in Pacific Territory.

General Order No. 367, June 29, 1922.—Requires that all international express commodity tariffs be amended so as to include a rule to the effect that rates named therein, unless specifically indicated as being competitive, will apply to or from intermediate points in Canada not enumerated in said tariffs.

No. 32566, July 4, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and La Compagnie de Telephone Rural de Ste. Sabine, operating in the Counties of Missisquoi and Iberville, Que.

No. 32570, July 4, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Perth & Christy's Lake Telephone Company, operating in the County of Lanark, Ont.

No. 32589, July 8, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Farmers Telephone Company, operating in the Counties of Chateauguay, Huntingdon, Beauharnois and St. Johns, Que.

No. 32613, July 15, 1922.—Approves Standard Freight Mileage Tariffs of the Canadian Pacific Railway, Esquimalt & Nanaimo Railway, and Kettle Valley Railway, filed in accordance with General Order No. 366.

No. 32615, July 17, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the North Easthope Municipal Telephone System, operating in the County of Perth, Ont.

No. 32627, July 19, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Goderich Municipal Telephone System, operating in the County of Huron, Ont.

No. 32629, July 20, 1922.—Approves Standard Mileage Freight Tariffs of the Canadian National Railways, Grand Trunk Pacific Railway, Edmonton, Dunvegan & British Columbia Railway, and Central Canada Railway, filed in accordance with General Order No. 366.

No. 32630, July 20, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Everett Telephone Company, operating in the Counties of Simcoe and Dufferin, Ont.

No. 32633, July 20, 1922.—Approves Tariff of Exchange Rentals and Charges for Service, C.R.C No. 1, of the Eastern Telephone & Telegraph Company.

No. 32634, July 21, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Balaclava Telephone Company, operating in the County of Grey, Ont.

No. 32635, July 24, 1922.—Approves Standard Mileage Freight Tariffs C.R.C. Nos. 1797 and 1798 of the Great Northern Railway, filed in accordance with General Order No. 366.

No. 32637, July 24, 1922.—Requires the Grand Trunk Railway Company to publish and file tariffs showing a rate of ninety cents per ton on high calcium limestone from Beachville to Niagara Falls, Ont.

No. 32641, July 24, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Welford Rural Telephone Company, operating in the Counties of Grenville and Lanark, Ont.

No. 32642, July 24, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Norton & McNab Telephone Association, operating in the County of Renfrew, Ont.

No. 32643, July 24, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Drummond Centre Telephone Company, operating in the County of Lanark, Ont.

No. 32644, July 24, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Madawaska Telephone Association, operating in the County of Renfrew, Ont.

No. 32651, July 21, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Addison Rural Independent Telephone Company, operating in the County of Leeds, Ont.

No. 32660, July 28, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the McNab Telephone Company, operating in the Counties of Renfrew and Lanark, Ont.

No. 32708, July 27, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Little Britain Telephone Company, operating in the County of Victoria, Ont.

No. 32711, August 2, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Harrietsville Telephone Association, operating in the Counties of Middlesex and Elgin, Ont.

No. 32712, July 27, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Farrelton Rural Telephone Company, operating in the County of Ottawa, Que.

No. 32713, August 8, 1922.—Approves Standard Mileage Freight Tariffs C.R.C. Nos. 2643 and 2644 of the New York Central Railroad Company.

No. 32730, August 6, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Mallorytown Telephone Company, operating in the County of Leeds, Ont.

No. 32736, August 5, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the East Wakefield Telephone Company, operating in the County of Ottawa, Que.

No. 32738, August 9, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Wilmot Municipal Telephone System, operating in the Counties of Waterloo and Perth, Ont.

No.32739, August 9, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Ryde Municipal Telephone System, operating in the District of Muskoka, Ont.

No. 32740, August 9, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Wroxeter Rural Telephone Company, operating in the County of Huron, Ont.

No. 32761, August 11, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Parkhill-Arkona Telephones, Limited, operating in the Counties of Lambton and Middlesex, Ont.

No. 32784, August 23, 1922.—Approves Standard Freight Mileage Tariff C.R.C. No. 221 of the British Columbia Electric Railway Company.

No. 32785, August 23, 1922.—Approves Supplement No. 2 to Express Classification for Canada No. 5.

No. 32786, August 22, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Caledon Municipal Telephone System, operating in the County of Peel, Ont.

No. 32787, August 23, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Huron & Kinloss Municipal Telephone System, operating in the Counties of Bruce and Huron, Ont.

No. 32789, August 23, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Rural Telephone Company of Kitley, operating in the County of Leeds, Ont.

No. 32790, August 23, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Maple Grove Telephone Company, operating in the County of Dufferin, Ont.

No. 32792, August 24, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Compagnie Electrique Maniwaki, operating in the County of Ottawa, Que.

No. 32795, August 25, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Bracebridge and Northwood Telephone Company, operating in the District of Muskoka, Ont.

No. 32796, August 25, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Nipissing Municipal Telephone System, operating in the District of Parry Sound, Ont.

No. 32829, September 7, 1922.—Approves Standard Mileage Freight Tariff C.R.C. No. 89 of the New Brunswick Coal & Railway Company.

No. 32830, September 7, 1922.—Approves Standard Mileage Freight Tariff C.R.C. No. 123 of the Fredericton & Grand Lake Coal & Railway Company.

No. 32867, September 19, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Corporation of the Township of Watt, operating in the District of Muskoka, Ont.

No. 32870, September 19, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Lower Bonnechere Telephone Company, operating in the County of Renfrew, Ont.

No. 32894, September 26, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Blind Line Telephone Company, operating in the County of Grey, Ont.

No. 32906, September 29, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Lansdowne Rural Telephone Company, operating in the County of Leeds, Ont.

No. 33016, October 21, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Roseville Rural Telephone Company, operating in the County of Lanark, Ont.

General Order No. 371, November 3, 1922.—Disallows item in tariffs or supplements filed by railway companies increasing the rate on box shooks, in carloads, pending hearing by the Board.

No. 33049, November 7, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the West Williams Rural Telephone Association, operating in the County of Middlesex, Ont.

No. 33056, November 8, 1922.—Approves Supplement No. 3 to the Express Classification for Canada No. 5.

No. 33059, November 7, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Home Telephone Company, operating in the Counties of York and Ontario, Ont.

No. 33078, November 10, 1922.—Approves Supplement No. 4 to the Express Classification for Canada No. 5.

No. 33088, November 14, 1922.—Approves Standard Freight Tariff C.R.C. No. 1 of the Maritime Coal, Railway and Power Company, Limited.

No. 33089, November 14, 1922.—Approves Standard Passenger Tariff C.R.C. No. 1 of the Maritime Coal, Railway and Power Company, Limited.

No. 33120, November 20, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and La Compagnie de Telephone du Notre Dame de Ham, operating in the County of Wolfe, Que.

No. 33121, November 20, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Mount Albert Telephone Company, operating in the Counties of York and Ontario, Ont.

No. 33154, November 27, 1922.—Approves Supplement No. 5 to the Express Classification for Canada No. 5.

No. 33168, November 28, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Commissioners for the Telephone System of the Municipality of the Township of North Algoma, operating in the County of Renfrew, Ont.

No. 33169, November 28, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and La Compagnie de Telephone Local de Ham Nord, operating in the County of Wolfe, Que.

No. 33170, November 28, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Queen's Line Telephone Company, operating in the County of Renfrew, Ont.

No. 33177, November 29, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and La Compagnie de Telephone de Weedon, operating in the County of Wolfe, Que.

No. 33178, November 29, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Kerr Line Telephone Company, operating in the County of Renfrew, Ont.

No. 33179, November 29, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and La Compagnie de Telephone Rural de St. Mathieu, operating in the Counties of Laprairie and Napierville, Que.

General Order No. 372, November 24, 1922.—Relieving Railway Companies, for the present, and until further or other order, from reporting the amount of surcharges collected on international shipments.

No. 33198, December 6, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Drummondville Telephone Company, operating in the Counties of Drummond, Bagot and Yamaska, Que.

No. 33203, December 6, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Atherley Telephone Company Association, operating in the County of Ontario, Ont.

No. 33227, December 15, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Goderich Rural Telephone Company, operating in the County of Huron, Ont.

No. 33228, December 15, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Commissioners for the Telephone System of the Municipality of the Township of Colborne, operating in the County of Huron, Ont.

No. 33229, December 15, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Commissioners for the Telephone System of the Municipality of the Township of Euphrasia, operating in the County of Grey, Ont.

No. 33230, December 15, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Chapeau Rural Telephone Company, operating in the County of Pontiac, Que.

No. 33244, December 26, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the Commissioners for the Telephone System of the Municipality of the Township of Humphrey, operating in the District of Parry Sound, Ont.

No. 33245, December 26, 1922.—Rescinds Orders Nos. 15286 and 15386, dated respectively March 15, 1910, and November 14, 1911, prescribing certain rates to be charged by the Grand Trunk Railway Company and the Michigan Central Railroad Company on binder twine.

No. 33250, December 28, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and the South Malahide Telephone Company, operating in the County of Elgin, Ont.

No. 33254, December 29, 1922. Approves agreement for interchange of telephone service between the Bell Telephone Company and the North Renfrew Telephone Company, operating in the County of Renfrew, Ont.

No. 33256, December 29, 1922.—Approves agreement for interchange of telephone service between the Bell Telephone Company and La Compagnie de Telephone Rurale de St. Angele de Laval, operating in the County of Nicolet, Que.

General Order No. 373, December 30, 1922.—Rescinds, until further order, General Order No. 372, dated November 24, 1922, respecting surcharge on international shipments.

APPENDIX " C "

REPORT OF THE CHIEF ENGINEER OF THE BOARD, G. A. MOUNTAIN, FOR THE YEAR ENDING DECEMBER 31, 1922

ROUTE MAPS

The Canadian Pacific Railway filed and obtained approval of route map from Cutknife, Sask., to Whitford Lake, Alta., mileage 0 to 180.

LOCATION PLANS

Plans have been approved showing location of branch lines, most of which are in the western provinces, and are as follows:—

Canadian National Railways

Dundee Branch, mileage 18·72 to 19·72, Manitoba. Revision.

Prince Albert—Denholm Branch, mileage 0 to 20·81, Saskatchewan. Revision.

Canadian Northern Quebec Railway, through Parishes of Ste. Eustache and St. Augustin, Province of Quebec. Revision.

Canadian Northern Quebec Railway, Lachute Subdivision, mileage 35·16 Revision.

Meeting Lake Branch, mileage 0 to 23 01, Saskatchewan. Revision.

Canadian Northern Pacific Railway, mileage 213·74 to 218·64. Revision.

Canadian Northern Pacific Railway, mileage 57·25 to 62·41. Revision.

Halifax & Southwestern Railway, Middleton Subdivision. Revision.

Canadian Northern Ontario Railway, between Neebing Avenue and Frederica Street, Fort William, Ont. Revision.

Niagara, St. Catharines & Toronto Railway, on Great Western Street, St. Catharines, Ont. Revision.

Brandon Subdivision, mileage 72·06 to 72·74, Manitoba. Revision.

Canadian Pacific Railway

Interprovincial & James Bay Railway, mileage 53 to 69. Quebec.

Kettle Valley Railway, mileage 10·28 near Okanagan Falls to mileage 39·33 on International Boundary, B.C.

Rosetown southeasterly, mileage 0 to 18·66. Saskatchewan.

Esquimault & Nanaimo Railway, from Johnson Street to Store Street, Victoria, B. C. Revision.

Swift Current northwesterly, mileage 31·07 to 34·02, Saskatchewan. Revision.

Interprovincial & James Bay Railway, mileage 48·01 to 49·05, and mileage 0 to 3, Ville Marie spur, Quebec. Revision.

HIGHWAY CROSSINGS

In connection with the above location plans there were two hundred and thirty-two highway crossings approved, also fifteen diversions of highways.

BRIDGES

The different railways throughout the country were authorized to construct, or reconstruct, sixty-four bridges. Also thirty-six bridges were inspected by the Board's Engineers and authority granted for operation.

INDUSTRIAL SPURS

Authority was granted for the construction of one hundred and ninety industrial spurs, varying in length from a few hundred feet to six miles.

RAILWAY CROSSINGS

Grade crossings were authorized at the following points, protected by full interlocking plants:—

Canadian National Railways by Canadian Pacific Railway, at Russell, Man.

Canadian National Railway by Grand Trunk Pacific Railway in N.W. ¼ Sec. 14, Twp. 53, R. 24, W. 4 Mer., Edmonton, Alta.

Crossings protected by half interlocking plants were authorized as follows:—

Hull Electric Railway by Canadian Pacific Railway at Montcalm Street, Hull, P.Q.

Sarnia Street Railway by Grand Trunk Railway at intersection of Exmouth and Front Streets, Sarnia, Ont.

Windsor Essex & Lake Shore Rapid Railway by Hydro Electric Power Commission with two tracks at intersection of Aylmer Avenue and Wyandotte Street, Windsor, Ont.

Canadian Pacific Railway, Havelock Subdivision, by Canadian Pacific Railway, Kingston Subdivision, at Sharbot Lake, Ont.

Winnipeg Street Railway by Grand Trunk Pacific Railway at Pembina Highway, Winnipeg, Man.

The following interlockers were inspected and changes authorized in the signals:—

British Columbia Electric Railway Crossing, Vancouver, Victoria & Eastern Railway at Powell Street, Vancouver, B.C.

Michigan Central Railroad crossing Grand Trunk Railway at Southwold, Ont.

Canadian National Railway, Battleford Subdivision, crossing Grand Trunk Pacific Railway, Cudworth Subdivision.

Canadian National Railway crossing Grand Trunk Pacific Railway at Dana, Sask.

Michigan Central Railroad crossing Grand Trunk Railway at Yarmouth, Ont.

Canadian Pacific Railway crossing Grand Trunk Railway at North Essa, Ont.

TRACK CONNECTIONS

Plans have been approved and authority granted for operation of the following:—

Canadian National Railway, Battle River Subdivision connection with Viking Subdivision, a distance of 0·52 miles.

Canadian National Railway connection with Grand Trunk Pacific Railway at Barlow, Alta.

Canadian Northern Ontario Railway connection with Grand Trunk Railway at Washago, Ont.

Canadian Northern Quebec Railway connection with National Transcontinental Railway between Lachevrotiere Station and St. Parc Station. P.Q.

Edmonton Street Railway with Canadian National Railway at 104th Street, Edmonton, Alta.

Grand River Railway with Canadian Pacific Railway at Galt, Ont.

Guelph Radial Railway with Canadian Pacific Railway at Guelph, Ont.

Canadian National Railway with Grand Trunk Pacific Railway at Barlow, Alta.

Canadian National Railway with Canadian Pacific Railway at Moose Jaw, Sask.

Quebec Central Railway with Canadian National Railway at Diamond Jct., P.Q.

Canadian Pacific Railway, LaSalle Loop, with Lachine Canal South Bank Branch, LaSalle, P.Q.

Halifax & Southwestern Railway with Dominion Atlantic Railway at Middleton, N.S.

Hydro-Electric Power Commission tracks with the Essex Terminal Railway in the Township of Sandwich West, Ont.

OPENING FOR TRAFFIC

Canadian National Railway from Scarpa, mileage 28·54, to Beachy, Sask., mileage 35.

Canadian Pacific Railway, Lanigan northeasterly, mileage 0 to mileage 49·34, Saskatchewan.

Canadian National Railway, St. Lawrence Subdivision, mileage 87·6 to mileage 91·6, Quebec.

Canadian National Railway, Amaranth to Alonsa, Manitoba, mileage 44·2 to mileage 62.

Canadian Pacific Railway, Adirondack Subdivision, mileage 42·82, to St. Patrick Street, LaSalle, Quebec.

Canadian National Railway from Gravelbourg, mileage 79 to mileage 109, Saskatchewan.

Canadian National Railway from Red Deer, mileage 0, to junction with Brazeau Subdivision, mileage 6·1, Alberta.

Canadian National Railway, Kashabowie Subdivision, mileage 8·7 to mileage 11·1. Revision.

Canadian Pacific Railway, Russell northerly, mileage 6·5 to mileage 12·34. Manitoba.

Canadian Pacific Railway, Weyburn-Lethbridge Branch, mileage 314·2 to mileage 351·04. Alberta.

POWER LINES

High tension power line Hydro Electric Power Commission from Burlington to Queenston, Ontario.

High tension power line Hydro Electric Power Commission across property of Grand Trunk Railway at Grimsby, Ont.

Double trolley, 600 volt overhead system of Hydro Electric Power Commission, over Windsor Essex & Lake Shore Rapid Railway at Howard Street, Windsor, Ont.

PROTECTIVE DEVICES

Installation electric bell and wig-wag at Main Street Crossing of the Grand Trunk Railway, Princeton, Ont.

Installation electric bell and wig-wag at highway crossing south of Iberville Jct., mileage 18·8, Adirondack Subdivision, Canadian Pacific Railway.

Installation of wig-wag at Argyle Street Crossing of the Grand Trunk Railway, Peterborough, Ont.

Installation of electric bell and wig-wag at crossing of Canadian National Railway at intersection of Smith Street and Eighth Avenue, Regina, Sask.

Installation of electric bell and wig-wag at crossing of Canadian National Railway at intersection of Smith Street and Dewdney Avenue, Regina, Sask.

Installation of electric bell and wig-wag at Stave Bank Road crossing of Grand Trunk Railway, Port Credit, Ont.

Installation of electric bell and wig-wag at Wentworth Street crossing of Dominion Atlantic Railway, Windsor, N.S.

Installation of wig-wag at Watson Street crossing of the Grand Trunk Railway, Woodstock, Ont.

Installation of electric bell and wig-wag at Main Street crossing of Canadian National Railway, Shawinigan Falls, P.Q.

Installation of wig-wag at Seminole Street crossing of Pere Marquette Railway, Walkerville, Ont.

Installation of wig-wag at Melford Street crossing of the Canadian Pacific Railway, Fairville, N.B.

Installation of wig-wag at Mechanic Street crossing of the Canadian Pacific Railway, Bath, N.S.

Installation of bell and wig-wag at Perth Road crossing of the Canadian Pacific Railway, mileage 100·9, Kingston Subdivision.

Installation of electric bell and wig-wag at Craig Street crossing of the Canadian Pacific Railway, Perth, Ont.

Installation of electric bell and wig-wag at highway crossing of the Grand Trunk Railway, east of Renton, Ont.

SUBWAYS

Reconstruction of tunnel at mileage 21·45, Mountain Subdivision, Canadian Pacific Railway, British Columbia.

Subway under the Esquimault & Nanaimo Railway at Johnson Street, Victoria, B.C.

Subway under the Canadian Pacific Railway in Sec. 16, Twp. 7, Rge. 3, W. 5 Mer., Alberta, to the Mohawk Bituminous Mines.

Subway under Canadian Pacific Railway at Algoma Station, Ont.

DRAINAGE

Mathers Drain under the Grand Trunk Railway, Lots 32 and 34, Con. 1, Township of Morris, Ont.

Drainage under the Canadian Pacific Railway, Lots 5 and 6, Con. 1, Township of Pallat, District Kenora, Ont.

Irrigation ditch under the Canadian Pacific Railway in S.W. $\frac{1}{4}$ Sec. 29, Twp. 9, Rge. 22, W. 4 Mer., Alberta.

Irrigation ditch under the Canadian Pacific Railway in N.W. $\frac{1}{4}$ Sec. 6, Twp. 10, Rge. 22, W. 4 Mer., Alberta.

Irrigation ditch under the Canadian Pacific Railway in S.W. $\frac{1}{4}$ Sec. 9, Twp. 10, Rge. 23, W. 4 Mer., Alberta.

Irrigation ditch under the Canadian Pacific Railway in N.E. $\frac{1}{4}$ Sec. 19, Twp. 9, Rge. 26, W. 4 Mer., Alberta.

Irrigation ditch under the Canadian Pacific Railway in S.E. $\frac{1}{4}$ Sec. 15, Twp. 10, Rge. 24, W. 4 Mer., Alberta.

Culvert under Canadian Pacific Railway at Dorval, P.Q.

Storm sewer under Grand Trunk Railway on Wellington Street, Hamilton, Ont.

De l'Ile Drain under Grand Trunk Railway, Parish St. Michel, P.Q.

Sewer under Toronto Hamilton & Buffalo Railway at King Street West, Hamilton, Ont.

Culvert under the Canadian National Railway at Broad Road, Regina, Sask.

MISCELLANEOUS

In addition to the above, many other matters have been dealt with, some of them involving inspections, such as fencing exemptions, draw-bridges, expropriation of land for railway purposes, cableway crossings, cattle passes, overhead tramways, water mains, wire crossings, ditches, etc.

APPENDIX "D"

REPORT OF THE CHIEF OPERATING OFFICER OF THE BOARD, GEORGE SPENCER, FOR THE YEAR ENDING DECEMBER 31, 1922

REPORTING AND INVESTIGATING OF ACCIDENTS ATTENDED BY PERSONAL INJURY OR LOSS OF LIFE

During the twelve months accidents to the number of 2,588, covering 243 persons killed and 2,856 persons injured, were reported to the Board by the various railway companies under its jurisdiction. For particulars, attention is directed to statements 1, 3 and 4.

A perusal of statements Nos. 2, 5, and 6, which are comparative statements of the killed and injured, reveals exactly the same number of persons killed and an increase of 928 persons injured as compared with the year 1921.

Out of a total of 2,588 accidents reported, as above referred to, 1,636 (63 per cent were investigated, covering 214 persons killed and 1,931 injured. Statements Nos. 7, 8, 9, and 10 set out in detail the investigations made as regards collisions, derailments, highway crossing accidents, also accidents the result of working on or under engines. These four statements show a total of 500 investigations covering 86 persons killed and 774 persons injured. The remainder of the investigations, which number 1,136, covering 128 persons killed and 1,157 persons injured, are spread over accidents covered by the various other headings referred to in statements Nos. 3, 4, and 5.

It will be observed that out of the total of 243 persons killed and 2,856 injured, there were trespassers to the number of 71 killed and 90 injured. In this connection reference is made to statement No. 16 which shows the number killed and injured by railways and provinces.

The matter of highway crossing accidents, protection provided, etc., is set out in detail in statements Nos. **3, 4, 5, 9, 11, 12, 13, 14 and 15.**

INSPECTION OF SAFETY APPLIANCES

The work in this connection is largely carried on under the provisions of section 298 of the Act and General Order No. 102. The year's work is set out in detail in statements Nos. 19, 20, 21 A and B. It is needless to say that the inspection of 82,128 cars entails considerable time and labour, both as regards field work, and the resultant checking, recording and filing of the numerous reports, in addition to the correspondence necessary in following up with a view to having the railway companies take the necessary action to have the defects remedied. The inspection of 82,128 cars produced 4,057 defective cars (4·94 per cent) with defects totalling 4,531.

INSPECTION OF STATIONARY BOILERS

This division of the work is carried out under sections 298, 299, 300 and 301 of the Railway Act, and General Orders Nos. 12, 31, 66, 78, 102, 107, 131, 171, 199, 226, 289, 293 and 330.

Under General Order No. 78, the so-called "Locomotive Boiler Inspection Order," approximately 70,000 report forms of monthly and annual inspections were filed during the year.

Under General Order No. 330 the so-called "Stationary Boiler Inspection Order," approximately 20,000 report forms of semi-annual and annual inspections were filed during the year.

During the year locomotives to the number of 11,144 were inspected with defective engines totallying 1,592 (5 per cent) and total defects of 651. For details reference is made to statement No. 22.

The checking and recording of the above mentioned forms and reports, together with the correspondence involved, naturally creates an extensive line of work.

INSPECTION OF PASSENGER EQUIPMENT, STATION BUILDINGS AND PREMISES.

This work comprises features on safety, cleanliness, accommodation, etc. A large number of matters have been brought to the attention of the proper officials with beneficial results.

APPLICATIONS AND COMPLAINTS RE TRAIN AND STATION SERVICE, HIGHWAY CROSSING PROTECTION, STATION LOCATIONS, CAR SUPPLY, ETC., ETC.

The work under this heading covers a wide range of subjects, and entails, in many instances, a considerable amount of enquiry and research. During the year complaints and applications numbering in the neighbourhood of 1,338 were inquired into and reported upon.

In conclusion it might be stated that, in order to accomplish the work briefly outlined above, it has necessitated the travelling of 308,001 miles by the staff of this department.

No. 1.—STATEMENT Showing Number of Passengers, Employees and Others Killed on the various Railways in Canada, Under the Board's Jurisdiction, for Year Ending December 31, 1922.

Name of Railway	Passengers		Employees		Others		Total	
	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured
Grand Trunk	1	115	15	510	42	126	58	751
Canadian Pacific	3	94	38	648	66	124	107	866
Canadian National	1	105	24	814	17	95	42	1,014
Michigan Central			3	39	20	18	23	57
Great Northern		2		6	1	5	1	13
Toronto, Hamilton and Buffalo		1	1	6	1	1	2	8
Hull Electric						1		1
Quebec Central						1		1
London and Port Stanley				1	1	3	1	4
Quebec, Montreal and Southern				6		2		8
Kettle Valley		4		27		3		34
Niagara, St. Catharines and Toronto						3		3
New York Central				5	1		1	5
Edmonton, Dunvegan and British Columbia			1	4			1	4
Lake Erie and Northern				3				3
Grand River		1				2		3
Central Vermont		1		3		1		5
Windsor, Essex and Lake Shore		36		2	1		1	38
Niagara, Welland and Lake Erie		1						1
Algoma Central and Hudson Bay					1	1	1	1
Napierville Junction					1	4	1	4
Père Marquette				4		1		5
Dominion Atlantic					1	1	1	1
Esquimalt and Nanaimo				1		1		2
Maine Central					1		1	
Atlantic, Quebec and Western			1	1			1	1
Oshawa					1		1	
Montreal and Southern Counties		1						1
Hamilton Radial				1		1		2
Toronto Suburban		15		3				18
Brantford and Hamilton						2		2
Total	5	376	83	2,084	155	396	243	2,856

No. 2.—COMPARATIVE STATEMENT of Killed and Injured Between Year Ending December 31, 1921, and Year Ending December 31, 1922.

	Passengers		Employees		Others		Total	
	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured
1921	4	240	91	1,344	148	344	243	1,928
1922	5	376	83	2,084	155	396	243	2,856
Decrease			8					
Increase	1	136		740	7	52		928

No. 3.— STATEMENT Showing Separately the Number of Passengers, Employees and Others, Killed and Injured, and the Nature of the Accidents, for Twelve Months Ending December 31, 1922.

Character of Accidents	Passengers		Employees		Others		Total	
	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured
Derailment		112	10	102		1	10	215
Collison head on		43		18		3		64
Collison rear end		9	2	18	1	3	3	30
Collison in yard		4	1	51		2	1	57
Collision with cars standing foul				5				5
Collison with cars account open switch		4		2				6
Collison at level (diamond) crossing		12		1				13
Public highway crossing protected by gates					2	10	2	10
Public highway crossing protected by bell					5	16	5	16
Public highway crossing protected by watchman				1	1	8	1	9
Public highway crossing unprotected				5	58	197	58	202
Private crossing				2	9	25	9	27
Trespassing				2	71	88	71	90
Working on or under engine				351				351
Miscellaneous		87	3	434		17	3	538
Adjusting couplers, coupling and uncoupling			5	79			5	79
Run down by engine or car between stations			9	10	1	2	10	12
Falling off hand car, motor or velocipede			2	175		3	2	178
Hand car, motor, velocipede struck by train			9	37	1	1	10	38
Crawling under cars			1	1			1	1
Crawling between cars over couplers				14		1		15
Passing between cars between couplers			1	4			1	4
Struck by car standing foul		6	2	10			2	16
Struck by switch stand, water spout, mail crane, etc				42				42
Crushed between cars, buildings, lumber piles, platforms, etc			2	15		1	2	16
Explosion of locomotive boiler				7				7
Falling off passenger train	1	6		7			1	13
Falling off tender while handling coal				7				7
Falling off tender while taking water				10				10
Industrial			1	41	1	1	2	42
Riding on pilot of foot board of engine			1	34			1	34
Overhead obstruction				8				8
Repairing cars on repair track when moved								
Falling off top of car			2	53			2	53
Falling between cars			3	11			3	11
Application of air brakes		6	1	140			1	146
Jumping off train in motion	4	33	1	77	3	7	8	117
Attempt to board train in motion		29	1	29		4	1	62
Washout		23		4				27
Bridge gave way or destroyed by fire								
Electrocuted								
Run down by engine or cars at stations or in yards		2	24	55	5	25	26	62
Passing too close around end of string of cars								
Caught in frog, guard rail, or switch rod				1				1
Caught by engine or car while throwing switch				6				6
Falling off side and end ladders of cars				33				33

No. 3—STATEMENT Showing Separately the Number of Passengers, Employees and Others, Killed and Injured, and the Nature of the Accidents, for Twelve Months Ending December 31, 1922.—*Concluded.*

	Passengers		Employees		Others		Total	
	Killed	Injured	Killed	Injured	Killed	Injured	Killed	Injured
Falling off car while working hand brake			2	68			2	68
Asphyxiated in tunnel								
Handling freight and baggage				56				56
Loading and unloading O.C.S. material				18				18
Staking or poling cars				4				4
Working in coal chute				3				3
Cars moved while being loaded or unloaded				6		1		7
Drawbridge open								
Carmen working on or under cars on running track when moved				2				2
Chaining and unchaining cars				1				1
Coupling and uncoupling hose and turning angle cock				24				24
Total	5	376	83	2,084	155	396	243	2,856

No. 4.—STATEMENT Showing the Character of Accidents Sustained by the Persons Killed and Injured on the various Railways under the Jurisdiction of the Board for Twelve Months Ending December 31, 1922.

—	G.T.R.		C.P.R.		C.N.R.		M.C.R.		G.N.R.		T.H. & B.		Hull Elec.		Q.C.R.		L. & P.S.		Q.M. & S.		K.V.R.	
	K.	I.	K.	I.	K.	I	K.	I.	K.	I.	K.	I	K.	I.	K.	I	K.	I.	K.	I.	K.	I.
Derailment	1	70	5	58	4	76		1												1		9
Collision head-on		7		5		10																
Collision rear end		15	2	7	1	8																
Collision in yard		15	1	15		23						2				..						3
Collision with cars standing foul				1		3																1
Collision with cars account open switch		1		5																		
Collision at level (diamond) crossing																						
Public Highway crossing protected by gates	2	5		1		1		3														
Public highway crossing protected by bell	3	8	2	7				1														
Public highway crossing protected by watchman	1	3		1		3						2										
Public highway crossing unprotected	11	64	21	59	10	45	14	8		5				1		1	1	3		1		2
Private crossing	1	11	7	4		8		2	1													1
Trespassing	21	29	34	31	4	23	5	3			1									1		
Working on or under engine		102		102		140		3		1		1										
Miscellaneous		158		162	3	189		13		4										2		5
Adjusting couplers, coupling and uncoupling	3	28	1	20		28		2														
Run down by engine or car between stations		3	8	4	1	5	1															
Falling off hand car, motor or velocipede		7	1	56	1	107		3														5
Hand car, motor or velocipede struck by train		1	3	16	6	16																2
Crawling under cars						1	1															
Crawling between cars over couplers				3		12																
Passing between cars between couplers		2		2	1																	
Struck by car standing foul		2	2	2		12																
Struck by switch stand, water spout, mail crane, etc		13		13		12		1				2										
Crushed between cars, buildings, lumber piles, platforms, etc	1	4		5	1	7																
Explosion of locomotive boiler				4		3																
Falling off passenger train		2	1	7		3		1														
Falling off tender while handling coal		2		1		4																
Falling off tender while taking water		4		5				1														
Industrial		7		9	1	23	1	1														2
Riding on pilot or footboard of engine		13		9	1	11		1														
Overhead obstruction		1		3		3		1														
Repairing cars or repair track when moved																						
Falling off top of car	2	11		23		17		1										1				
Falling between cars		1	2	3	1	6				1												
Application of air brake	1	24		50		62		7				1								1		1
Jumping off train in motion	4	31	3	43	1	36		1		1												
Attempt to board train in motion	1	16		22		20		1		1												2
Washout		1				26																
Bridge gave way or destroyed by fire																						

Electrocuted																							
Run down by engine or cars at stations or in yards	6	19	12	23	6	16	1	1			1												
Passing too close around end of string of cars																							
Caught in frog, guard rail or switch rod		1																					
Caught by engine or car while throwing switch		5				1																	
Falling off side and end ladders of cars		10		16		6		1															
Falling off car while working hand brake		18	2	40		9																	1
Asphyxiated in tunnel																							
Handling freight and baggage		21		8		22															1		
Loading and unloading O.C.S. material		3		7		6															1		1
Staking or poling cars		2																					
Working in coal chute				2		1																	
Cars moved while being loaded or unloaded		5		1																			
Drawbridge open																							
Carmen working on or under cars on running track when moved				1		1																	
Chaining and unchaining cars				1																			
Coupling and uncoupling hose and turning angle cock		6		9		9																	
	58	751	107	866	42	1,014	23	57	1	13	2	8		1		1	1	4		8		34	

No. 4.—STATEMENT Showing the Character of Accidents Sustained by the Persons Killed and Injured on the Various Railways under the Jurisdiction of the Board for Twelve Months Ending December 31, 1922.—*Continued.*

	N. St. C. & T.		N.Y.C.		E.D. & B.C.		L.E. & N.		Grand River		C.V.R.		W.E. & L.S.		Nia. W. & L.E.		A.C. & H.B.		Napanee Junction		P.M.R.	
	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.
Derailment														24								
Collision head-on																						
Collision rear-end																						
Collision in yard																						
Collision with cars standing foul																						
Collision wigh cars account open switch														13								
Collision at level diamond crossing																						
Public highway crossing protected by gates																						
Public highway crossing protected by bell																						
Public highway crossing protected by watchman																						
Public highway crossing unprotected		2						1		1									1	4		1
Private crossing		1																				
Trespassing..			1							1			1				1	1				
Working on or under engine				1								1										
Miscellaneous				1		2		1						1								
Adjusting couplers, coupling and uncoupling																						1
Run down by engine or car between stations																						
Falling off hand motor or velocipede																						
Hand car motor or velocipede struck by train					1	2																1
Crawling under cars																						
Crawling between cars over couplers																						
Passing between cars between couplers																						
Struck by car standing foul.																						
Struck by switch stand, water spout, mail crane, etc.												1										
Crushed between cars, buildings, lumber piles, etc																						
Explosion of locomotive boiler																						
Falling off passenger train.																						
Falling off tender while handling coal																						
Falling off tender while taking water																						
Industrial																						
Riding on pilot or footboard of engine																						
Overhead obstruction																						
Repairing cars on repair track when moved														1								
Falling off top of car																						
Falling between cars																						
Application of air brake																						
Jumping off train in motion										1		2				1						
Attempt to board train in motion																						
Washout																						
Bridge gave way or destroyed by fire																						
Electrocuted																						

Run down by engine or cars at stations or in yards								1																1
Passing too close around end of string of cars																								
Caught in frog guard rail or switch rod																								
Caught by engine or car throwing switch																								
Falling off side and end ladders of cars																								
Falling off car while working handbrake																								
Asphyxiated in tunnel																								
Handling freight and baggage				3								1												
Loading and unloading O.C.S. material																								
Staking or poling cars																								
Working in coal chute																								
Cars moved while being loaded or unloaded																								
Drawbridge open																								
Carmen working on or under cars on running track when moved																								
Chaining and unchaining cars																								
Coupling and uncoupling hose and turning angle cock																								
		3	1	5	1	4		3		3		5	1	38		1	1	1	1	4		5		

No. 4.—STATEMENT Showing the Character of Accidents Sustained by the Persons Killed and Injured on the Various Railways under the Jurisdiction of the Board for Twelve Months Ending December 31, 1922. —*Continued.*

	D.A.R.		E. & N.		Maine Central		A.Q. & W.		Oshawa		M. & S.C.		Ham. Radial		Tor. Suburban		B. & H.		Total	
	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I	K.	I.	K.	I	K.	I	K.	I
Derailment																			10	215
Collision head-on																18				64
Collison rear-end																			3	30
Collision in yard																			1	57
Collision with cars standing foul																				5
Collision with cars account open switch																				6
Collision at level (diamond) crossing																				13
Public highway crossing protected by gates																			2	10
Public highway crossing protected by bell																			5	16
Public highway crossing protected by watchman																			1	9
Public highway crossing unprotected				1										1				2	58	202
Private crossing																			9	27
Trespassing	1	1			1				1										71	90
Working on or under engine																				351
Miscellaneous																			3	538
Adjusting couplers, coupling and uncoupling							1												5	79
Run down by engine or car between stations																			10	12
Falling off hand car, motor or velocipede																			2	178
Hand car, motor or velocipede struck by train																			10	38
Crawling under cars																			1	1
Crawling between cars over couplers																				15
Passing between cars between couplers																			1	4
Struck by car standing foul																			2	16
Struck by switch stand, water spout, mail crane, etc.																				42
Crushed between cars, buildings, lumber pile, platform, etc.																			2	16
Explosion of locomotive boiler																				7
Falling off passenger train																			1	13
Falling off tender while handling coal																				7
Falling off tender while taking water																				10
Industrial																			2	42
Riding on pilot or footboard of engine																			1	34
Overhead obstruction																				8
Repairing cars on repair track when moved																				1
Falling off top of car																			2	53
Falling between cars																			3	11
Application of air brake																			1	146
Jumping off train in motion														1					8	117
Attempt to board train in motion																			1	62
Washout																				27
Bridge gave way or destroyed by fire																				1
Electrocuted																				1
Run down by engine or cars at stations or in yards												1							26	62
Passing too close around end of string of cars																				1
Caught in frog, guard rail, or switch rod																				6
Caught by engine or car while throwing switch																				33
Falling off side and end ladders of car																				68
Falling off car while working hand brake																			2	

Asphyxiated in tunnel																					56
Handling freight and baggage																					18
Loading and unloading O.C.S. material								1													4
Staking or poling cars																					3
Working in coal chute				1																	
Cars moved while being loaded or unloaded																					
Drawbridge open																					2
Carmen working on or under cars on running track when moved																					1
Chaining and unchaining cars																					24
Coupling and uncoupling hose and turning angle cock																					
	1	1		2	1		1	1	1			1		2		18		2	243	2,856	

No. 5.—Comparative Statement in Totals of Killed and Injured by Class of Accident Between Year Ending December 31, 1921, and Year Ending December 31, 1922.

Character of Accidents	1921		1922		1922 Increase		1922 Decrease	
	K	I.	K.	I.	K.	I.	K.	I.
Derailment	12	159	10	215		56	2	
Collision, head on	2	33		64		31	2	
Collision rear end,	2	28	3	30	1	2		
Collision, in yard	1	43	1	57		14		
Collision with cars standing foul		15		5				10
Collision with cars account open switch	2	6		6			2	
Collision at (level) diamond crossing		7		13		6		
Public highway crossing protected by gates	5	13	2	10			3	3
Public highway crossing protected by bell	14	27	5	16			9	11
Public highway crossing protected by watchman	1	8	1	9		1		1
Public highway crossing unprotected	50	166	58	202	8	36		
Private crossing	6	18	9	27	3	9		
Trespassing	64	91	71	90	7			1
Working on or under engine		235		351		116		
Miscellaneous	15	341	3	538		197	12	
Adjusting couplers, coupling and uncoupling		69	5	79	5	10		
Run down by engine or car between stations	3	5	10	12	7	7		
Falling off hand car, motor or velocipede	4	88	2	178		90	2	
Hand car, motor, velocipede struck by train	9	59	10	38	1			21
Crawling under cars		1	1	1	1			
Crawling between cars over couplers		3		15		12		
Passing between cars between couplers	2	4	1	4			1	
Struck by car standing foul		1	2	16	2	15		
Struck by switch stand, water spout, mail crane, etc.	1	31		42		11	1	
Crushed between cars, bldgs., lumber piles, platforms, etc	2	8	2	16		8		
Explosion of locomotive boiler		6		7		1		
Falling off passenger train	3	18	1	13			2	5
Falling off tender while handling coal		2		7		5		
Falling off tender while taking water		3		10		7		
Industrial	8	34	2	42		8	6	
Riding on pilot or foot board of engine	1	22	1	34		12		
Overhead obstruction	1	10		8			1	2
Repairing cars on repair track when moved								
Falling off top of car	3	16	2	53		37	1	
Falling between cars	2	7	3	11	1	4		
Application of air brake		72	1	146	1	74		
Jumping off train in motion	3	64	8	117	5	53		
Attempt to board train in motion	3	38	1	62		24	2	
Washout	1	3		27		24	1	
Bridge gave way or destroyed by fire	1	4					1	4
Electrocuted								
Run down by engine or cars at stations or in yards	18	57	26	62	8	5		
Passing too close around end of string of cars		1						1
Caught in frog, guard rail, or switch rod		4		1				3
Caught by engine or car while throwing switch	1	4		6		2	1	
Falling off side and end ladders of cars		18		33		15		
Falling off car while working hand brake	1	22	2	68	1	46		
Asphyxiated in tunnel								
Handling freight and baggage		17		56		39		
Loading and unloading O.C.S. material		20		18				2
Staking or poling cars		2		4		2		
Working in coal chute		1		3		2		
Cars moved while being loaded or unloaded		5		7		2		
Drawbridge open								
Carmen working on or under cars on running track when moved		2		2				
Chaining and unchaining cars				1		1		
Coupling and uncoupling hose and turning angle cock	2	17		24		7	2	
	243	1928	243	2,856	51	991	51	63
Increase			243	1,928	51	63		
				928		928		

No. 6.—Comparative Statement in Totals of Killed and Injured Between Year Ending December 31, 1921, and Year Ending December 31, 1922.

Name of Railway.	1921		1922		1922			
					Increase		Decrease	
	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk	67	579	58	751	.....	172	9	.....
Canadian Pacific	107	356	107	866	.....	510	.....	.....
Canadian National	47	828	42	1,014	.....	186	5	.....
Michigan Central	3	33	23	57	20	24	.....	.....
Great Northern	2	9	1	13	.....	4	1	.....
Toronto, Hamilton and Buffalo	2	15	2	8	.....	.....	.....	7
Hull Electric	.....	.....	.....	1	.....	1	.....	.....
Quebec Central	1	1	.....	1	.....	.....	1	.....
London and Port Stanley	.....	.....	1	4	1	4	.....	.....
Quebec, Montreal and Southern	.....	4	.....	8	.....	4	.....	.....
Kettle Valley	2	14	.....	34	.....	20	2	.....
Niagara, St. Catharines and Toronto	3	15	.....	3	.....	.....	3	12
New York Central	1	18	1	5	.....	.....	.....	13
Edmonton, Dunvegan and British Columbia	.....	4	1	4	1	.....	.....	.....
Lake Erie and Northern	.....	4	.....	3	.....	.....	.....	1
Grand River	1	6	.....	3	.....	.....	1	3
Central Vermont	.....	1	.....	5	.....	4	.....	.....
Windsor, Essex and Lake Shore	.....	2	1	38	1	36	.....	.....
Niagara, Welland and Lake Erie	.....	.....	.....	1	.....	1	.....	.....
Algoma Central and Hudson Bay	.....	.....	1	1	1	1	.....	.....
Napierville Jct	5	7	1	4	.....	.....	4	3
Père Marquette	1	2	.....	5	.....	3	1	.....
Dominion Atlantic	.....	1	1	1	1	.....	.....	.....
Esquimalt and Nanimo	.....	3	.....	2	.....	.....	.....	1
Maine Central	.....	.....	1	.....	1	.....	.....	.....
Atlantic, Quebec and Western	.....	.....	1	1	1	1	.....	.....
Oshawa	.....	4	1	.....	1	.....	.....	4
Montreal and Southern Counties	.....	3	.....	1	.....	.....	.....	2
Hamilton Radial	.....	4	.....	2	.....	.....	.....	2
Toronto Suburban	.....	.....	.....	18	.....	18	.....	.....
Brantford and Hamilton	.....	6	.....	2	.....	.....	.....	4
Essex Terminal	.....	1	.....	.....	.....	.....	.....	1
Boston and Maine	1	.....	.....	.....	.....	.....	1	.....
Wabash	.....	8	.....	.....	.....	.....	.....	8
	243	1,928	243	2,856	28	989	28	61
Increase	.....	.....	243	1,928	28	61	.....	.....
			.....	928	.....	928		

No. 7.—Statement Showing Collisions Attended by Personal Injury Investigated During the Year Ending December 31, 1922.

File	Date	Railway	Place	Killed	Injured
Inv. 10882	Dec. 3	G.T.R.	Woodstock, Ont.		1
" 10892	Jan. 7	G.T.R.	Brockville Yard, Ont., East crossover		1
" 10902	Dec. 23	C.N.R.	Near Mabella ,Sask		2
" 10905	Oct. 22	C.N.R.	Port Mann Yard		1
" 10912	Dec. 6	C.N.R.	Near Rosedale, B.C		7
" 10982	Jan. 15	G.T.R.	Lacolle, Jct. Que		1
" 10996	Jan. 11	G.T.R	Montreal, near Seigneurs St., Que		2
" 11025	Jan. 11	G.T.R.	Coteau, Que., on lead at standpipe		1
" 11058	Feb. 18	G.T.R.	Coteau Jct., No. 2 siding Que.,		1
" 11100	Feb. 25	G.T.R.	Rymal, Ont		2
" 11120	Feb. 28	G.T.R.	Paris Jct., Ont		1
" 11135	Mar. 18	G.T.R.	Mimico, Ont., Order yard west end		1
" 11136	Mar. 8	C.P.R.	Guelph Jct., Ont		1
" 11154	Mar. 4	C.N.R.	Bruno, Sask		2
" 11185	Mar. 22	G.T.R.	York, Ont., east crossover		1
" 11190	Mar. 23	G.T.R.	Montreal, Victoria Bridge, West end		2
" 11205	Mar. 31	C.P.R.	Bredenbury Sub., M.P. 27·6		1
" 11220	Mar. 22	C.N.R.	Melville, Sask		1
" 11488	May 30	C.P.R	Toronto Termimals, near Bay St	1	
" 11501	June 14	C.P.R.	Yoho, B.C		2
" 11528	June 17	G.T.R.	York, Ont		1
" 11558	May 2	C.P.R	Nelson Yard, B.C		1
" 11624	July 11	G.T.R.	Windsor, Ont., Blue line sw		3
" 11686	July 31	C.P.R.	Near St. Clet, Que	1	
" 11722	July 23	C.N.R.	Fort Rouge, Man		1
" 11725	July 22	W.E. & L.S	Lake Shore Jct., Ont		24
" 11809	July 22	C.P.R	Mitford, Alta		1
" 11916	July 31	G.T.R.	Cayuga, Ont		5
" 11927	Aug. 17	G.T.R. 7 H.E.R.	Ford, Ont., Diamond intersection		46
" 11969	Aug. 22	C.N.R.	Regina, Yard Sask		1
" 11986	July 27	C.N.R.	Port Mann, B.C		3
" 11990	Sept. 16	C.P.R.	Alyth Yard, Calgary, Alta		1
" 12003	Sept. 10	C.P.R.	Farnham Yard, Que		5
" 12031	Sept. 23	C.N.R.	Watrous, Sask		1
" 12049	Sept. 21	G.T.R.	Princeville, Ont		3
" 12055	Sept. 22	C.P.R	Kenora Yard. Ont		1
" 12109	Oct. 6	C.N.R.	Barwick, Ont		8
" 12113	Sept. 14	K.V.R.	Penticton Yard, B.C		2
" 12116	Oct. 6	G.T.R.	Pt. St. Charles, Que		1
" 12137	Sept. 22	C.P.R.	Colonsay Sub., M.P. 118·5, Sask	1	3
" 12157	Oct. 17	C.N.R.	Winnipeg, Fort Rouge, Man		1
" 12183	Oct. 3	C.P.R.	Fort William Yard, Ont		1
" 12193	Oct. 9	C.N.R.	Melville, Sask		2
" 12209	Oct. 19	C.N.R.	St. Frances. Sub., M.P. 173, Ont		4
" 12244	Nov. 4	G.T.R.	Canpa, Ont		1
" 12258	Oct. 26	C.P.R.	Kalmar Tunnel, M.P. 22, Ont		3
" 12264	Oct. 18	C.P.R.	Kenora Yard, Ont		3
" 12283	Oct. 10	C.N.R.	Bashaw Sub., M.P. 33·5, Alta	1	3
" 12289	Oct. 14	Tor. Sub.	Weston, Ont., opposite Irwin's Lumber Co.'s Siding		18
" 12360	Nov. 12	C.N.R.	Limoilou, Que., near Headley Jct		5
" 12384	Oct. 30	C.N.R.	Davidson, Sask		3
" 12392	Nov. 20	C.P.R.	Fort William, Terminals Ont		1
" 12393	Nov. 21	C.P.R.	Ignace Yard, Ont		1
" 11979	Sept. 21	T.H. & B.	Hamilton, Ont		2
" 10859	Dec. 8	G.T.R.	St. Lambert Jct., Que		1
" 12421	Oct. 31	C.P.R.	Montreal, Sortin Yard, Que		2
" 12431	Nov. 26	C.P.R.	North Transcona, Man		1
" 12441	Nov. 8	C.P.R.	Smith's Falls, Ont., 1 mile west	1	
" 12444	Nov. 29	C.N.R.	Winnipeg, Man		1
" 12477	Nov. 20	G.T.R.	Montreal Turcot West, Que		1
" 12486	Dec. 13	G.T.R.	New Sarum, Ont		6
				5	202

No. 8.—STATEMENT Showing Derailments Attended by Personal Injury Investigated during the Year ending December 31, 1922.

File	Date	Railway	Place	Killed	Injured
Inv. 10891..	Nov. 29....	G.T.R.....	St. Catharines, Ont.....	.....	1
" 10915..	Nov. 2....	C.P.R.....	M.P. 12, Kimberley Sub., B.C.....	.....	1
" 10918	Dec. 9....	G.T.R.....	Toronto, Wm. Davies Co.'s siding.....	.....	1
" 10930	Jan. 21.	C.P.R.....	Ellwood Station, M.P. 4·85, Prescott Sub., Ont.....	1	21
" 10955	Jan. 20...	G.T.R.....	Hamilton, Ont., N. and N. W. Jct.....	.....	3
" 11036	Jan. 26....	G.T.R.....	Midland Yard, Ont.....	.....	1
" 11042..	Feb. 13...	G.T.R.....	Toronto, old shed lead, Ont.....	.....	1
" 11065	Feb. 18....	C.P.R.....	M.P. 134½, Laggan Sub.....	.....	4
" 11073	Feb. 23....	C.N.R.....	Near Fenwood, M.P. 289, Touchwood Sub.....	.....	15
" 11098..	Feb. 16....	C.N.R.....	Regina west yards, Sask.....	.....	1
" 11105..	Feb. 12....	C.N.R.....	Near Norway, Bashaw Sub.....	.....	2
" 11106	Jan. 17..	C.N.R.....	Near Red Pleasant, M.P. 25 Porter Sub.....	.....	1
" 11155..	Mar. 3....	C.N.R.....	Mt. Robson, B.C.....	.....	4
" 11192	Mar. 27....	G.T.R.....	Allandale Yard, Ont.....	.....	1
" 11218..	Apr. 15....	C.P.R.....	M.P. 45·7, Crows Nest Sub, Alta.....	.....	8
" 11241..	Apr. 18....	C.N.R.....	Lachevrotière Station, west of, Que.....	2	1
" 11242..	Apr. 16....	C.N.R.....	Near Sims, Ont., M.P. 216, Fort Frances Sub.....	.....	2
" 11244..	Apr. 7...	C.N.R.....	Near Maryfield, M.P. 2 Carlyle Sub.....	1	1
" 11298..	May 8....	C.P.R.....	1½ miles west of Maberley, Ont.....	.....	2
" 11330..	April 14....	C.P.R.....	M P. 120, Carberry Sub., Man.....	.....	1
" 11335..	April 30....	C.P.R.....	Kenora Yard, Ont.....	.....	1
" 11353	Mar. 22....	K.V.R.....	M.P. 129·2, Coquihalla Sub., B.C.....	.....	1
" 11415..	May 25....	C.P.R.....	M.P. 43, Shaunavon Sub., Sask.....	.....	1
" 11436..	May 13....	C.N.R.....	M.P. 71, Liverpool Sub., N.S.....	.....	5
" 11437..	June 13....	C.N.R.....	M.P. 37, Shester Sub., N.S.....	.....	2
" 11497..	April 24....	Q.M. & S...	One mile west of Boucherville, Que.....	.....	1
" 11507.	June 12....	G.T.R.....	London East, Ont.....	.....	1
" 11508..	June 9....	G.T.R.....	Merritton, Ont.....	.....	1
" 11516..	May 25....	C.P.R.....	Methven, Man.....	.....	1
" 11532..	June 28....	C.P.R.....	West switch Verner, Ont.....	1	1
" 11537..	June 20....	G.T.R.....	Allanburg, Ont.....	.....	1
" 11549..	June 22....	C.N.R.....	Near Ryerson, Sask., M.P. 6, Sarlyle Sub.....	.....	2
" 11567..	June 9....	C.N.R.....	Albreda, B.C.....	.....	1
" 11575..	June 6...	K.V.R.....	Beaverdell, B.C.....	.....	1
" 11620..	July 20....	C.N.R.....	6 poles East of M.P. 138, Oba Sub., Ont.....	1	1
" 11637..	June 27....	C.N.R.....	Dewey, B.C., M.P. 1227.....	.....	1
" 11680..	Aug. 3....	K.V.R.....	M.P. 16, Merritt, Sub. B.C.....	.....	1
" 11772..	Aug. 18....	C.N.R.....	M.P. 155, Rowley Sub., Alta.....	.....	1
" 11824..	Aug. 17....	C.P.R.....	Outremont roundhouse, Que.....	.....	1
" 11869..	Sept. 9....	C.N.R.....	M.P. 5, Amsterdam (near) Sask.....	.....	3
" 11908..	Sept. 15....	G.T.R.....	Guelph Jct., Ont.....	.....	1
" 11918..	Sept. 15...	G.T.R.....	Sidney, Ont.....	.....	5
" 11926..	Sept. 4....	C.N.R.....	Near Birds Hills, Man.....	.....	1
" 12019..	Sept. 11....	C.P.R.....	Moose Jaw, Sask.....	.....	1
" 12024..	Sept. 6....	C.N.R.....	Prince Albert Yard, Sask.....	.....	1
" 12047..	Sept. 19...	C.P.R.....	Culross, Man.....	1	2
" 12065..	Oct. 2....	G.T.R.....	Jeanettes Creek, Ont.....	.....	3
" 12068..	Sept. 19....	C.P.R.....	M.P. 17·5, Glenboro Sub., Man.....	.....	1
" 12103..	Oct. 22....	C.N.R.....	M.P. 76, Oba Sub., Ont.....	.....	6
" 12107..	Oct. 18....	C.P.R.....	2·4 miles south of Wingham Jct., Ont.....	.....	4
" 12108..	Oct. 12....	P.M.R.....	St. Thomas, Victoria Yard, Ont.....	.....	1
" 12120..	Oct. 3....	C.P.R.....	M.P. 94, La Rivière Sub., Man.....	.....	1
" 12145..	Sept. 9....	C.N.R.....	Beachburg, Ont., new business track.....	.....	1
" 12252..	Sept. 28....	C.N.R.....	Edmonton, Alta.....	.....	1
" 11263..	Oct. 23....	C.P.R.....	M.P. 22·5, Broadview Sub., Sask.....	.....	2
" 12271..	Sept. 24....	C.N.R.....	Gillespie, Alta., M.P. 123·1, Battle River Sub.....	.....	1
" 12311..	Oct. 31....	G.T.R.....	Mandaumin, Ont.....	.....	1
" 12332..	Nov. 22....	C.P.R.....	M.P. 76, Sterling Sub., Alta.....	.....	2
" 11345..	Mar. 21....	C.P.R.....	M.P. 42, Cascades Sub., B.C.....	.....	1
" 12464..	Dec. 18....	C.P.R.....	Palliser, B.C., 1½ miles East.....	2	.....
" 12484..	Dec. 15....	C.N.R.....	Bowsman, Man., near M.P. 106.....	.....	16
				9	152

No. 9.—Statement Showing Highway Crossing Accidents Attended by Personal Injury Investigated During Year Ending December 31, 1922.

O.D. File	Brd. File	Date	Time	Railway	Place	K.	I.	Protection	Class of accident	Remarks
10856	C-1825	Dec. 20	11 47 a.m.	C.P.R.	Lindsay, Ont., 2½ miles south	1	1	Watchm'n	H. & R.	Carelessness; Rural
10857	2487	Dec. 19	5.52 p.m.	G.T.R.	Pt. St. Charles, Que., Charlevoix St		1	Gates.	Ped.	Right angle; double; carelessness; urban.
10863	26744-30	Nov. 25	3 30 p.m.	C.N.R.	Dauphin, Man., Gladys St		2	Unp.	Auto.	Right angle; single; carelessness; urban.
10866	26765-217	Nov. 17	12 21 p.m.	G.T.R.	Cgan ville, Ont., 1st crossing east	1		Unp.	H. & R.	Right angle; single; carelessness; rural.
10881	9437-574	Nov. 9	10 45 a.m.	M.C.R.	Niagara Falls, Ont., Bender Ave		1	Bell	Auto.	Right angle; double; trees, carelessness; urban
10883	26765-216	Dec. 24	10 53 p.m.	G.T.R.	Cainsville road crossing, Ont	2		Unp.	Auto.	Right angle; single; carelessness; rural
10885	9437-639	Dec. 22	7 43 a.m.	G.T.R.	Toronto, Logan avenue	1		Gates	Ped.	Right angle; double; carelessness; urban.
10894	26324	Dec. 9	7 45 p.m.	C.N.R.	Port Arthur, Ont., May street		1	Unp.	Auto.	Right angle; double; carelessness; urban.
10903	18490	Nov. 10	10 25 a.m.	C.P.R.	Grindrod sta., first crossing north	1	1	Unp.	Motor	Right angle; double; carelessness; rural.
10908	27802-5	Dec. 21	9 56 a.m.	T.H. & B.	Mineral Springs, Ont., West Gov. road		1	Unp.	Auto.	Right angle; single; carelessness; rural.
10910	27318-11	Dec. 24	8 08 p.m.	L.E. & N.	Bowlby road crossing, Ont		3	Unp.	Auto.	Right angle; single; h. bank; carelessness; rural
10911	27156-47	Jan. 7	7 20 p.m.	H.E.R.	Hull, Que., Aylmer road		1	Unp.	Auto.	Right angle; single; carelessness; urban.
10919	C 1760	Dec. 24	3 15 p.m.	M.C.R.	Welland, Ont., Main street		3	Gates	Auto.	Right angle; single; carelessness; urban
10920	9437-867	Jan. 10	8 40 p.m.	T.H. & B.	Hamilton, Walnut street		2	Watchm'n	Auto.	Right angle; double; carelessness; urban.
10923	9437-186	Jan. 10	6 30 p.m.	C.P.R.	Guelph, Ont., Market street		1	Bell	H. & R.	Right angle; single; carelessness; urban.
10933	31646	Nov. 23	7 45 a.m.	Q.C.R.	Weedon, Que., first crossing north		1	Unp.	Auto.	Right angle; single; carelessness; rural.
10940	26765-219	Dec. 23	7 35 a.m.	G.T.R.	Ilderton, Ont., Main street			Unp.	Auto.	Right angle; sidings; carelessness; rural.
10947	26765-218	Jan. 9	9 10 a.m.	G.T.R.	Kitchener, Ont., St. Ledger street		1	Unp.	Ped.	Right angle; double; sidings; carelessness; urban
10960	9437-565	Dec. 24	11 45 p.m.	C.P.R.	Montreal, Que., Cote des Neiges street		1	Bell	Auto.	Right angle; double; carelessness; urban.
10969	26765-220	Jan. 23	8.10 a.m.	G.T.R.	Whitby, Ont., Dundas street		2	Unp.	Auto.	Right angle; single; carelessness; rural.
11027	31646-1	Jan. 13	9 25 p.m.	Q.C.R.	St. Henedine, Que., first crossing north		1	Unp.	Ped.	Right angle; single; carelessness; rural.
11029	30424-2	Jan 1	6 53 p.m.	L. & P.S.	London, Ont., crossing 11·6 miles from	1	1	Unp.	Ped.	Right angle; single; carelessness; urban
11038	4135-58-28	Jan 31	3 30 p.m.	C.P.R.	Dilkie, Man., first crossing west		1	Unp.	H. & R.	Right angle; single; carelessness; rural.
11049	27365-16	Feb. 7	9 30 a.m.	C.P.R.	Foxwarren, Man., first crossing west		1	Unp.	H. & R.	Right angle; single; carelessness; rural.
11059	25707	Jan. 30	3 35 p.m.	C.N.R.	Swan River, Man., Main street		1	Unp.	H. & R.	Right angle; single; carelessness; rural.
11080	27811-2	Jan. 30	2 12 p.m.	C.P.R.	Calgary, Alta., Black foot trail		1	Unp.	Auto.	Right angle; single; carelessness; urban.
11087	26722-41	Mar. 2	11.22 a.m.	C.P.R.	Colborne, Ont., second crossing west		1	Unp.	H. & R.	Right angle; single; carelessness; rural
11091	26765-133	Feb. 25	11.30 a.m.	N. St C.&T.	St. Catherines, Ont., John street		1	Unp.	Auto.	Right angle; double; carelessness; urban.
11092	26727-92	Mar. 3	4 00 p.m.	C.P.R.	Ingersoll, Ont., Thames street	1		Unp.	Auto.	Right angle; single; h. bank; carelessness, rural
11122	26727-93	Mar. 14	7.15 a.m.	C.P.R.	Kingston, Ont., Brock street		1	Unp.	Auto.	Right angle; single; sdgs.; carelessness; rural
11158	27073-1	Feb. 1	3 30 p.m.	C.P.R.	Vernon, B.C., Coldstream road		1	Unp.	Motor	Right angle; single; carelessness; rural.
11173	21823	Mar. 17	10·00 a.m.	C.P.R.	St. Boniface, Man., Marion street		1	Unp.	H. & R.	Right angle; single; carelessness; rural
11174	26765-152	Mar. 21	8.50 a.m.	G.T.R.	York, Ont., east end of yard		1	Unp.	Motor	Right angle; single; carelessness, rural
11213	9437-218	April 3	6 36 p.m.	G.T.R.	Bradford, Ont., first crossing south		1	Unp.	Motor	Right angle; single; carelessness; rural
11231	27467-25	Mar. 30	8 45 p.m.	C.N.R.	North Battleford, Sask., Robert street		4	Unp.	Auto.	Right angle; single; carelessness; rural
11243	9437-426	April 13	1 55 a.m.	G.T.R.	Wainfleet, Ont., crossing 1 mile east		1	Unp.	H. & R.	Right angle; single; carelessness; rural
11252	28786-14	Mar. 15	12 30 a.m.	C.N.R.	Acheson, Alta., near MP. 806.		1	Unp.	Auto.	Right angle; single; trees; carelessness; rural.
11302	9437-284	April 29	5 15 p.m.	C.P.R.	Chatham, Ont., Raleigh street	1	2	Unp.	Auto.	Right angle; double; carelessness; rural.
11307	25493-1	April 22	3 00 p.m.	G.T.R.	Toronto, Ont., Eastern avenue		1	Watchm'n	Auto.	Right angle; double; carelessness; urban
11337	26765-224	April 20	10 00 a.m.	G.T.R.	Brandy Creek, Ont., road crossing		1	Unp.	Auto.	Right angle; single; carelessness; rural.
11349	29529-1	Mar. 24	7 40 a.m.	C.N.R.	Vancouver, B.C., Boundary road		1	Bell	Motor	Right angle; single; trees; carelessness; urban
11358	26727-94	May 10	1 00 p.m.	C.P.R.	Owen Sound, Ont., William street		1	Unp.	Motor	Right angle; single; siding; carelessness; urban
11383	28786-15	April 16	7 45 a.m.	C.N.R.	Edmonton, Alta., 101 street		1	Unp.	Ped.	Skew; single; siding; carelessness; urban.
11386	27811-23	May 20	11.20 a.m.	C.P.R.	Innisfail, Alta., 4½ miles south	2		Unp.	Motor	Skew; single, carelessness, rural.
11393	26727-74	May 2	5 25 p.m.	C.P.R.	Bellrose, Ont., Governors road		1	Unp.	H. & R.	Skew; single; trees, carelessness; rural.
11399	26765-223	May 13	7 30 a.m.	G.T.R.	Hickson, Ont., first crossing north		1	Unp.	H. & R.	Right angle; stacks, billboards; sidings; care; rural
11405	27467-26	April 21	4 30 p.m.	C.N.R.	Saskatoon, Sask., 8th street		1	Unp.	Auto.	Skew; single; trees; carelessness; urban
11421	9437-662	May 10	9 52 a.m.	C.P.R.	Lacadie, Que., first crossing north	3		Unp.	H. & R.	Skew; double, station; carelessness; rural.

11454	26711·34	May	6	6.00 p.m.	C.N.R.	Emo, Ont., Florence street	1	....	Unp.	Ped.	Skew; single; siding; station; carelessness; rural.
11472	9437·80	June	5	11.35 a.m.	C.P.R.	Weston, Ont., Dennison avenue	....	1	Bell.	H. & R.	Skew; single; siding; buildings; carelessness; rural.
11475	26842·3	June	14	2.40 p.m.	M.C.R.	Brookfield, Ont., crossing 2 miles west	1	..	Unp.	Auto.	Right angle; double; carelessness; rural.
11479	9437·241	June	7	9.45 a.m.	G.T.R.	Uxbridge, Ont., Brock street	..	1	Bell.	H. & R.	Skew; single; siding; station; building; careless; rural.
11481	26765·326	June	6	4 30 p.m.	G.T.R.	Grasshill, Ont., third crossing east	1	1	Unp.	H. & R.	Skew; single; carelessness; rural.
11482	9437·107	June	16	11.32 a.m.	G.T.R.	Cobourg, Ont., William street	2	1	Bell.	Auto.	Right angle; double; carelessness; urban.
11490	9437·547	May	21	9.15 p.m.	G.T.R.	Peterboro, Ont., Wescott and Park streets	....	1	Unp.	Ped.	Skew; single; carelessness; urban.
11494	253	June	8	10.20 a.m.	G.T.R.	Caledonia, Ont., first crossing east	....	2	Bell.	Auto.	Right angle; single; siding; station; carelessness; rural.
11531	30424·3	June	23	.....	L. & P.S.	London, Ont., crossing at Stop 18	....	1	Unp.	Auto.	Right angle; siding; trees; buildings; carelessness; rural.
11536	26765·225	May	30	7.38 a.m.	G.T.R.	Jarvis, Ont., ½ mile north	....	1	Unp.	Auto.	Right angle; single; trees; banks; carelessness; rural.
11550	26842·25	June	23	2.30 p.m.	M.C.R.	Brigden, Ont., second crossing east	1	...	Unp	Auto.	Right angle; single; trees; carelessness; rural.
11551	27652·21	June	26	6.55 p.m.	G.T.R.	St. Madeline, Que., one mile east	1	.	Unp	H. & R.	Right angle; double; carelessness; rural.
11552	27652·20	June	3	2.27 p.m.	G.T.R.	Norton Mills, Que., ½ miles west	3	1	Unp	Auto.	Skew; single; siding; carelessness; rural.
11553	26842·26	June	26	4.52 p.m.	M.C.R.	Oil City, Ont., County road crossing	...	3	Unp.	Auto.	Right angle; single; station; carelessness; rural.
11561	26727·95	June	16	12.57 p.m.	C.P. R.	Wingham, Ont., crossing 2 miles west	...	1	Unp.	Motor	Skew; single; high ground; carelessness; rural.
11578	26765·229	June	23	1.52 p.m.	G.T.R.	Scarboro Jct., one mile east	....	1	Unp.	H. & R.	Right angle; double; trees; carelessness; rural.
11587	26727·96	June	24	4·52 p.m.	C.P.R.	Catarqui, Ont., Sydenham road	....	1	Unp.	Auto.	Right angle; single; trees; billboards; care; rural.
11592	26765·232	July	3	6.50 p.m.	G.T.R.	Guelph, Ont., Dublin street	..	1	Unp	Auto.	Right angle; double; carelessness; urban.
11594	26765·231	June	20	11.40 a.m.	G.T.R.	Varney, Ont., 1½ miles south	..	1	Unp.	Auto.	Right angle; single; trees; carelessness; rural.
11595	9437·417	June	13	1.40 p.m.	G.T.R.	Dunnville, Ont., Cedar street	..	1	Unp.	Auto.	Right angle; single; siding; building; care; urban.
11596	9437·851	June	10	5.00 p.m.	G.T.R.	Thornton, Ont., 3rd crossing north	...	1	Unp.	Auto	Skew; single; trees; carelessness; rural.
11632	9437·1244	July	10	3.33 p.m.	C.P.R.	Tremof, Ont., Eglington avenue	2	.	Bell	Auto	Skew; single; buildings; carelessness; urban.
11635	30747	June	17	10·35 a.m.	N.J.R.	Lacolle, Que., Hughes crossing	1	4	Unp.	Auto.	Skew; single; carelessness; rural.
11639	9437·787	June	30	6.15 p.m.	G.T.R.	Montreal, Que., Guy street	...	1	Gates	Ped.	Right angle; double; siding; carelessness; urban.
11640	27652·23	July	15	2·01 p.m.	G.T.R.	St. Hyacinthe, Que., Grand Range	1	..	Unp.	Auto	Skew; double; carelessness; rural.
11641	27652·22	July	3	7 24 p.m.	G.T.R.	Stottsville, Que., first crossing north	..	1	Unp	Auto.	Right angle; single; building; carelessness; rural.
11643	26782·20	July	17	7.20 a.m.	C.N.R.	Montreal, Que., St. George avenue	...	2	Unp.	Motor	Right angle; single; carelessness; urban.
11649	26765·233	July	6	4·05 a.m.	G.T.R.	Renton, Ont., first crossing east	...	2	Unp.	Auto.	Right angle; single; siding; station building; care; rural.
11650	26842·27	July	20	11.45 a.m.	M.C.R.	Stevensville, Ont., first crossing east	7	1	Unp.	Auto.	Right angle; double; siding; carelessness; rural.
11664	26765·230	July	14	10·40 a.m.	G.T.R.	Cheltenham, Ont., 4th line crossing	..	2	Unp.	Auto.	Right angle; single; trees; siding; care; rural.
11677	9437·163	July	24	5.50 p.m.	G.T.R.	Carp, Ont., first crossing west	...	1	Bell	H. & R.	Skew; single; buildings; station; care; rural.
11685	26765·127	July	20	6.42 p.m.	N. St.C.&T	St. Catharines, Page street	..	1	Unp	Auto	Right angle; single; sidings; care; urban.
11687	27652·24	July	31	1.30 p.m.	G.T.R.	Barrington, Ont., first crossing west	..	1	Unp	H. & R.	Right angle; single; carelessness; rural.
11723	26765·233	Aug.	4	2.00 p.m.	G.T.R.	Renton, Ont., first crossing east	1	..	Unp.	H. & R.	Right angle; single; siding; station building; careless; rural.
11731	27652·5	July	17	1.25 p.m.	G.T.R.	Montreal, Que., Aqueduct street	.	1	Gates	Ped.	Right angle; double; carelessness; urban.
11747	26765·155	July	25	2 25 p.m.	G.T.R.	Kitchener, Ont., Wellington street	.	1	Unp	Auto.	Skew; single; sidings; buildings; care; urban.
11752	30391	July	29	3.46 p.m.	L. & P.S.	Port Stanley, Ont., Bridge street	...	1	Unp	Motor	Right angle; single; siding; buildings; care; urban.
11753	26765·93	July	23	2.15 p.m.	G.T.R.	Port Hope, Ont., Walton street	...	2	Unp.	Auto.	Right angle; single; urban.
11754	3878·67	July	26	11.37 a.m.	C.N.R.	Cobourg, Ont., first crossing east	...	4	Unp	Auto.	Right angle; single; banks; carelessness; rural.
11759	27156·60	Aug.	7	5 05 a.m.	C.P.R.	Pont Rouge, Que., 1 mile east	..	1	Unp	H. & R.	Skew; single; buildings, carelessness; rural.
11764	27467·27	June	13	5.45 p.m.	C.N.R.	Oban, Sask., first crossing west	..	1	Unp	H. & R.	Right angle; single; station; carelessness; rural.
11765	27156·59	July	25	4.50 p.m.	C.P.R.	St. Martin, Que., first crossing north	2	1	Unp	Auto.	Right angle; double; station; carelessness; rural.
11766	17700	July	17	4.20 p.m.	C.P.R.	Blairmore, Alta., 9th avenue	...	1	Unp.	Auto.	Right angle; single; carelessness; urban.
11773	26765·128	July	8	12.25 p.m.	G.T.R.	Amigari, Ont., Garrison road	...	3	Unp	Auto.	Right angle; single; carelessness; rural.
11785	27468·28	June	16	3·33 p.m.	C.N.R.	Kinley Road crossing, Sask	1	1	Unp	Auto.	Skew, single; embankment; carelessness; rural.
11787	14813	Aug.	10	7.35 a.m.	G.T.R.	Rockfield, Que., first crossing east	1	.	Bell	Ped.	Right angle; double; carelessness; rural.
11789	26744·31	June	22	.....	C.N.R.	Portage la Prairie, Man., first crossing west	.	2	Unp.	Motor	Right angle; single; carelessness; urban.
11804	32248	July	13	2.15 p.m.	C.N.R.	Morden, Man., ¼ mile east	..	1	Unp	Auto.	Skew; single; trees; carelessness; rural.
11839	27156·8	Aug.	19	5·42 p.m.	C.P.R.	Hull West, Que., Aylmer road	..	2	Bell	Auto.	Right angle; single; carelessness; urban.
11852	27156·62	Aug.	31	3·52 p.m.	C.P.R.	Hull, Que., St. Florent street	2	3	Unp	Motor	Right angle; single; building; care; urban.
11853	27356·17	July	18	10 30 a.m.	C.P.R.	Oakbank, Man., crossing 2 miles west	.	5	Unp	Auto.	Right angle; single; siding; care; rural.
11861	9437·1267	Sept.	6	4·33 p.m.	G.T.R.	Ottawa, Ont, Parkdale avenue	..	1	Bell	H. & R.	Right angle; single; buildings; care; urban.

No. 9.—Statement Showing Highway Crossing Accidents Attended by Personal Injury Investigated During Year Ending December 31, 1922—(*Concluded*).

O.D. File	Brd file	Date	Time	Railway	Place	K.	L.	Protection	Class of accident	Remarks
11864	9437·735	May 1	11 55 a.m.	G.T.R.	Burlington, Ont., first crossing, west		1	Unp	H. & R.	Right angle; single; siding; careless; rural
11867	26727·100	Sept. 6	11 42 a.m.	C.P.R.	Chesterville, Ont., ½ mile west. .	2	.	Unp	Auto.	Skew; double; trees; carelessness; rural.
11870	27167·29	Aug. 14	12 50 p.m.	C.N.R.	Wadena, Sask., crossing at station. .		1	Unp	H. & R.	Right angle; single; siding; building; care; rural. .
11878	. . . . .	Sept. 2	9 00 a.m.	C.N.R.	Elgin, Man., East switch crossing. . .		2	Unp	Auto.	Right angle; single; careless—ness; rural.
11879	26842·28	Aug. 15	9 45 a.m.	M.C.R.	Yarmouth, Ont., first crossing west	1	.	Unp	Ped.	Right angle; double; hedges; buildings; care; rural.
11880	C-844	Aug. 26	12 40 p.m.	G.T.R.	Toronto, Ont., Bay street		1	Watchm'n	Ped.	Right angle; double; care; urban (watchman run down).
11881	18759	Aug. 22	12 57 p.m.	G.T.R.	Toronto, Ont., Bloor street		1	Gates .	Auto.	Right angle; double; carelessness; urban.
11882	26765·236	Aug. 4	8 05 a.m.	G.T.R.	Toronto, Ont., Trinity street . . .		1	Unp	Ped.	Right angle; single; sidings; careless—sness; urban.
11883	9437·186	Sept. 9	12 25 p.m.	C.P.R.	Guelph, Ont., Allen's Road .		2	Bell	Auto	Right angle; double; carelessness; urban.
11891	9437·996	Sept. 2	7 30 a.m.	G.T.R.	Mount Forest, Ont., Queen street .		1	Unp	Auto.	Right angle; double; trees; careless—ness; urban.
11892	26727·98	Aug. 11	11 00 a.m.	C.P.R.	Holland, Ont., crossing at M.P. 75·8		3	Unp	Auto.	Skew; single; building; trees; highbanks; care; rural.
11894	27401·14	July 15	10 00 a.m.	C.P.R.	Florenceville, N.B., 1 mile south		1	Unp	Auto.	Right angle; single; trees; careless—ness; rural
11898	27401·13	Sept. 1	10 40 a.m.	C.P.R.	Pamdence, N.B., crossing east end station .		2	Unp.	Motor	Right angle; single; careless—ness; rural
11928	26842·29	July 6	6 30 p.m.	M.C.R.	Montrose Jct., Ont., rd crossing west of. .	. .	1	Unp	Auto.	Right angle; double; careless—ness; rural.
11936	26765·238	Aug. 4	11 25 a.m.	G.T.R.	Marshville, Ont., ½ mile east . .		1	Unp	Auto.	Right angle; double; trees; high banks; care; rural
11937	27401·121	Aug. 12	12 20 p.m.	C.P.R.	Tracy, N.B., crossing at M.P. 47·7.	1		Unp	Ped.	Right angle; single; station; building; care; rural
11948	26727·102	Sept. 13	9 10 a.m.	C.P.R.	St. Thomas, Ont., crossing 2 miles east		1	Unp	H. & R.	Skew; single; careless—ness; rural.
11970	27401·15	Sept. 11	4·20 p.m.	C.P.R.	St. Stephen, N.B., King street .		2	Unp	Auto.	Right angle; single; building—; carelessness; rural.
11983	9437·256	Sept. 25	2 30 p.m.	C.P.R.	Perth, Ont., ¾ miles east.	1		Unp	Auto.	Skew; double; siding; trees; careless—ness; urban.
11985	27218·5	Aug. 16	12 44 a.m.	C.N.R.	Italy Cross, N.S., 1 mile east		1	Unp	Auto.	Right angle; single; carelessness; rural.
11991	27156·64	Sept. 19	7 45 a.m.	C.P.R.	Quebec Wharf, Que., Har. Com. crossing		2	Unp	Auto.	Right angle; single; carelessness; urban.
11999	24586	Sept. 5	1.15 p.m.	C.P.R.	Montebello, Que., ½ mile west..		1	Unp	H. & R.	Skew; single; careless—ness; rural.
12008	26765·237	Sept. 21	2 20 p.m.	G.T.R.	Clandeboye, Ont., 1 mile north .		2	Unp	Auto.	Right angle; single; careless—ness; rural.
12014	9437·1147	Sept. 18	6 15 p.m.	G.T.R.	Kitchener, Ont., Wilmot and Walnut streets		1	Bell	Motor	Right angle; single; carelessness; urban.
12015	8673	Sept. 21	4 40 p.m.	G.T.R.	West Toronto, Ont., Weston road .		1	Gates	Ped	Right angle; double; siding; careless—ness; urban
12052	26711·13	Oct. 2	11 15 p.m.	C.N.R.	Capreol, Ont., Yonge street	1	1	Unp	Auto.	Right angle; single; carelessness; urban.
12054	27365·191	Sept. 1	11 23 a.m.	C.P.R.	Manitou, Man., second crossing west	.	1	Unp	H. & R.	Right angle; single; careless—ness, rural.
12056	27156·65	Sept. 27	5 45 p.m.	C.P.R.	St. Gregoire, Que., first crossing north	2		Unp	Motor	Skew; double; careless—ness; rural
12057	27156·66	Sept. 28	3·27 p.m.	C.P.R.	St. Vincent de Paul, Que., first crossing west	.	1	Unp	H. & R.	Right angle; single; carelessness; rural.
12062	26842·8	Sept. 25	11 55 a.m.	M.C.R.	Niagara Falls, Ont., Bridge street .	1		Unp	H. & R.	Skew; single; careless—ness; urban
12074	4552·1	Oct. 3	6 05 p.m.	G.T.R.	Hamilton, Ont., Wellington street			Unp	Ped	Right angle; double; siding; careless—ness; urban
12078	9437.169	Oct. 9	8 12 a.m.	C.P.R.	Beachville, Ont., Bossa street .		2	Bell	H. & R.	Right angle; single; carelessness; rural.
12091	26765·204	Oct. 5	4 28 p.m.	G.T.R.	Weston, Ont., 5th avenue. . .	1	1	Unp	Auto	Right angle; single; carelessness; rural.
12094	27365·18	Sept. 18	4 35 p.m.	C.P.R.	Brandon, Man., 26th street	1	1	Unp	Auto.	Right angle; double; carelessness; urban.
12110	6256·5	Oct. 5	6 15 p.m.	C.N.R.	Saskatoon, Sask., Avenue "I" .		1	Unp	Motor	Right angle; single; carelessness; urban.
12115	26782·21	Oct. 3	6 10 p.m.	C.N.R.	Charlesbury, Que., at M.P. 2·3 . .	1		Unp	Auto.	Right angle; single; carelessness; rural.
12141	27365·20	Sept. 21	6 55 p.m.	C.P.R.	Headingly, Man., Portage road . .	. .	1	Unp	Auto	Right angle; single; brush; carelessness; rural.
12142	27073·10	Sept. 22	4 30 p.m.	C.P.R.	Essondale, B.C., first crossing north	1	1	Unp	Auto.	Right angle; single; station; careless—ness; rural.
12147	27148	Aug. 28	4 00 p.m.	Q.M.&S.	Sorel, Que., Elizabeth street.		1	Unp	H. & R.	Right angle; single; siding; careless—ness; urban.
12149	27156·5	Sept. 23	8 00 a.m.	C.P.R.	Yamachiche, Que., crossing 400 feet east . . .		2	Unp	H. & R.	Right angle; single; station; building; care; rural.
12161	26842·32	Oct. 18	7 30 a.m.	M.C.R.	Montague, Ont., first crossing west		1	Unp	H. & R.	Right angle; double; station; careless—ness; rural.
12163	26765·239	Oct. 4	5 05 p.m.	G.T.R.	Rosebank, Ont., crossing at station . . .		1	Unp	Ped.	Skew; double; trees; station; care; rural.
12165	26727·65	Oct. 21	10.45 a.m.	C.P.R.	Carleton Place, Ont., Albert street . . .		1	Unp	H. & R.	Right angle; single; siding; care; urban.
12168	26765·242	Oct. 9	5.10 p.m.	G.T.R.	Ottawa, Ont., Booth street		1	Watchm'n	Ped.	Right angle; single; careless—ness; urban.
12201	27073.11	Sept. 25	3.15 p.m.	E. & N.	Clemainus, B.C., 2·4 miles south	. . . .	1	Unp	Auto.	Skew; single; brush, careless—ness; rural.

12204	26765·243	Oct. 13	6.18 p.m.	G.T.R.	Brookfield, Ont., Young's crossing	1		Unp.	H. & R.	Right angle; single; carelessness; rural.
12205	27233	Oct. 24	1.30 p.m.	C.P.R.	Toronto, Ont., Riverdale Park crossing		1	Watchm'n	Ped.	Right angle; double; carelessness; urban.
12207	27467·14	Oct. 2	4·40 p.m.	C.N.R.	Saskatchewan River Bridge, Sask.		1	Unp.	Auto.	Right angle; single; carelessness; urban.
12221	9437·1309	Sept. 26	2.20 p.m.	G.T.R.	Waterville, Que., Government road		2	Bell	Auto.	Skew; single; carelessness; rural.
12223	28615·5	Oct. 19	3·11 p.m.	C.P.R.	Quebec, Que., Parent street		1	Unp	Auto.	Right angle; single; carelessness; urban.
12224	26711·8	Oct. 6	9.36 a.m.	C.N.R.	Lyn, Ont., first crossing north		1	Unp	Motor	Skew single; carelessness; rural.
12236	32409	Oct. 24	6.50 a.m.	G.T.R.	Kitchener, Ont., Mill street		1	Unp.	Ped.	Right angle; single; carelessness; urban.
12240	26765·244	Oct. 26	6·50 p.m.	G.T.R.	St. Catharines, Ont., fifth crossing west		1	Unp.	Auto.	Right angle; double; carelessness; rural.
12268	26807·26	Sept. 14	4 25 p.m.	C.P.R.	Ogoma, Sask., first crossing west		1	Unp.	H. & R.	Right angle; single; carelessness; rural.
12272	27467·30	Sept. 26	12.45 p.m.	C.N.R.	Winter, Sask., crossing at M.P. 603	2	1	Unp	Auto.	Right angle; single; carelessness; rural.
12273	26786·16	Oct. 7	4·15 p.m.	C.N.R.	Blackfoot, Alta., 10 poles west	2	2	Unp	Auto.	Right angle; single; carelessness; rural.
12278	C-4868	Nov. 10	2·33 p.m.	G.T.R.	Jarvis, Ont., public road crossing	1		Gates	Ped.	Skew; single; sidings; trees; carelessness; rural.
12279	26842·25	Oct. 28	10.55 a.m.	M.C.R.	Brigden, Ont., Main street		1	Unp	Motor	Right angle; single; trees; carelessness; rural.
12295	23262	Oct. 27	7.40 a.m.	C.N.R.	Portage Jct., Man., crossing at M.P. 2	1		Unp.	Ped.	Right angle; single; carelessness; rural.
12296	26765·246	Oct. 13	9.43 a.m.	G.T.R.	Preston, Ont., Guelph street		1	Unp.	Ped.	Right angle; single; sidings; stn.; buildings; care; urban.
12299	9437·1098	Nov. 7	9·25 p.m.	G.T.R.	Walkerville, Ont., Pillette road	1		Unp	H. & R.	Right angle; double; carelessness; rural.
12314	26765·241	Oct. 16	1.35 p.m.	G.T.R.	Waubaushene, Ont., crossing at west end	1		Unp	Ped.	Right angle; single; station; siding; trees; care rural.
12315	2100·79	Nov. 3	10.12 a.m.	C.P.R.	Drancel, Ont., first crossing west	1		Unp	H. & R.	Skew; single; trees; carelessness; rural.
12327	26807·27	Oct. 21	9.46 a.m.	C.P.R.	Crossing at M.P. 22, Kisbey Sub., Man		1	Unp	H. & R.	Skew; single; carelessness; rural.
12328	27467·31	Oct. 21	6 05 p.m.	C.N.R.	Minard, Sask., crossing west of station		1	Unp	H. & R.	Right angle; single; high banks; care; rural.
12361	27373·1	Nov. 4	5·30 a.m.	C.N.R.	Quebec, Que., Beauport road		2	Watchm'n	H. & R.	Right angle; single; carelessness; urban.
12365	26842·11	Nov. 22	7.18 p.m.	M.C.R.	Welland, Ont., Stone road	1		Unp	H. & R.	Skew; double; carelessness; rural.
12372	27116·7	Oct. 28	8.30 a.m.	C.N.R.	Lac aux Sables, Que., first crossing west		1	Unp	H. & R.	Right angle; single; carelessness; rural.
12373	4087·16	Nov. 11	2.50 p.m.	C.P.R.	Simpson, Sask., first crossing south	1	1	Unp	Auto.	Right angle; single; carelessness; rural.
12398	26765·247	Nov. 23	2 55 p.m.	G.T.R.	Delhi, Ont., 3rd crossing east		1	Unp	H. & R.	Right angle; single; banks; carelessness; rural.
12405	C-4803	Nov. 23	6.00 p.m.	C.N.R.	Portage la Prairie, Man., Tupper street		1	Unp.	Ped.	Right angle; single; carelessness; urban.
12411	26765·249	Nov. 17	5 45 p.m.	G.T.R.	Collingwood, Ont., Hume street		1	Unp.	Auto.	Right angle; single; bank; trees; care; urban.
12416	26782·25	Nov. 8	9 55 a.m.	C.N.R.	Grand Mere, Que., 3 poles east	2		Unp.	Motor	Right angle; single; carelessness; rural.
12422	26765·248	Nov. 20	1 25 a.m.	G.T.R.	Fenelon Falls, Ont., Lindsay street		5	Unp.	Auto.	Right angle; single; siding; buildings; care; urban.
12423	27156·2	Nov. 13	4.22 p.m.	C.P.R.	Montreal, Que., Elmhurst street		2	Unp.	H. & R.	Right angle; double; carelessness; urban.
12432	26807·6	Nov. 16	7.10 a.m.	C.P.R.	Swift Current, Sask., first crossing east		1	Unp	Auto.	Right angle; double; carelessness; rural.
12436	9437·559	Nov. 20	10 42 a.m.	G.T.R.	Kingston Jct., Ont., Cataraqui street		1	Unp	Auto.	Right angle; double; carelessness; rural.
12442	5027	Dec. 12	12 15 p.m.	M.C.R.	Hagersville, Ont., King street	1		Unp	Auto.	Right angle; double; carelessness; urban.
12443	26842·33	Dec. 4	3·15 p.m.	M.C.R.	Hawtrey, Ont., first crossing west	1	1	Unp	Auto.	Right angle; double; carelessness; rural.
12445	9437·1026	Nov. 10	12 28 a.m.	C.N.R.	Trenton, Ont., Dundas street		2	Unp	Auto.	Right angle; single; station; buildings; care; urban
12449	24692	Dec. 4	7 58 p.m.	C.N.R.	St. Boniface, Man., Archibald street		1	Unp	Auto.	Right angle; single; sidings; buildings; care; urban
12452	28786·17	Nov. 16	10 05 a.m.	C.N.R.	Lyalta, Alta., crossing 16 poles west		2	Unp	Ped.	Skew; single; carelessness; rural.
12467	9437·1096	Dec. 6	3 35 p.m.	G.T.R.	Montreal, Que., Hibernia road		1	Gates.	Ped.	Right angle; double; buildings; carelessness; urban.
183						72	223			

Explanation of abbreviations:—Wat'n., Watchman; H. & R., Horse and rig; Auto., Automobile; Dble., Double track; Sdgs., Sidings; Bldgs., Building; Stn.; Station; Unp., Unprotected; Ped., Pedestrian; Motor, Motor truck; Sgle, Single track; H. Banks, High Banks; Care, Carelessness.

No. 10.—Statement Showing Accidents to Employees While Working On or Under Engines, Investigated During the Year Ending December 31, 1922.

File	Date	Railway	Place	Remarks	Killed	Injured
Inv. 10851	Nov. 28	C.N.R.	Exira Coal dock., Man	Slipped from running board	–	1
" 10853	Dec. 17	C. P. R.	Moose Jaw roundhouse, Sask	Stud in arch tube plate blew out	–	2
" 10874	Dec. 20	TH&B.	Granics, Ont	Attempted to tighten union nut on pipe	–	1
" 10889	Nov. 23	C. N.R.	Ashville, Man	Water glass broke	–	1
" 10939	Jan. 6	C.P.R.	Obico, Ont	Fell from cab of engine.	–	1
" 10953	Dec. 13	C.N.R.	Biggar Water tank, Sask	Slipped on back of tank	–	1
" 10961	Jan. 19	G.T.R.	Thames River, Ont.	Cleaning window, slipped on running board	–	1
" 10962	Jan. 12	G.T.R.	Brantford Depot, Ont	Fell walking around running board	–	1
" 10963	Jan 9.	G.T.R.	Georgetown, Ont	Tightening up joint on engine	–	1
" 10968	Jan. 18	Mid.	Winnipeg, Man	Slipped while filling sand box on engine	–	1
" 10974	Jan. 4	C.N.R.	Capreol, Ont	Fell while climbing up to headlight	–	1
" 10975	Jan. 8	C.N.R.	Geikie, Alta.	Getting through front window of cab	–	1
" 10986	Jan. 25	C.N.R.	Drumheller, Alta	Fire blew back in fire-box	–	1
" 10997	Dec. 27	C.N.R.	St. Tite, Que	Opening fire-box door.	–	1
" 10999	Dec. 27	G.T.R.	Montreal, Bonaventure Station	Filling lubricator, oil blew out	–	1
" 11009	Jan. 20	G.T.R.	Dunkeld Station, Ont.	Endeavouring to move engine off dead centre	–	1
" 11010	Feb. 1	G.T.R.	Rama, Ont.	Getting down from engine off tender step, slipped	–	1
" 11017	Jan. 26	C.P.R.	Eagle River, Man.	Cable on coal chute broke.	–	1
" 11035	Feb. 5	G.T.R.	St. Thomas roundhouse, Ont	Placing markers on front of engine	–	1
" 11043	Feb. 2	C.N.R.	Maidstone, Alta.	Steam pipe to left injector broke off.	–	1
" 11055	Feb. 8	G.T.R.	Longwood Station, Ont.	Went on running board to oil air pump	–	1
" 11081	Feb. 17	C.N.R.	North Bay, Transfer Yard, Ont.	Engine moved while taking water	–	1
" 11082	Mar. 3	C.N.R.	Cogama, Ont	Pipe blew out of nigger head which furnishes steam to train line	–	1
" 11084	Feb. 9	C.N.R.	Mecheche, Alta	Struck hand while opening ashpan	–	1
" 11095	Feb. 13	C.N.R.	Craik, Sask	Pulling coal chute up	–	1
" 11109	Feb. 11	C.N.R.	Salvus, B. C.	Explosion occurred while engine taking oil fuel	–	1
" 11110	Feb. 11	C.N.R.	Turtle, Man	Fell while climbing down off tender	–	1
" 11111	Feb. 9	C.N.R.	Marten Lake, B.C	Slipped while getting off engine.	–	1
" 11114	Jan. 25	C.N.R.	Big Valley, Alta	Ruptured while reversing engine	–	1
" 11115	Feb. 25	C.N.R.	Hanna Shop Track, Alta	Scalded by steam escaping from blow-off cock	–	1
" 11121	Feb. 21	G.T.R.	Peterboro, Ont	Getting down into cab of engine	–	1
" 11128	Feb. 8	C.N.R.	Near Aleza Lake, B.C.	Trying to shake engine grates	–	1
" 11130	Mar 14	G.T.R.	Thames River, Ont.	While putting in fire struck hand on dipper in cab.	–	1
" 11133	Mar. 2	M.C.R.	Essex, Ont.	Reverse lever slipped	–	1
" 11134	Mar. 2	G.T.R.	Downsview, Ont	Jumped off engine.	–	1
" 11143	Feb. 17	G.T.R.	Pt. St. Charles, Que.	Thawing bell-ringer on engine	–	1
" 11177	Jan. 19	C.N.R.	Regina shop track, Sask	Slipped on step of tender	–	1
" 11178	Mar. 11	G.T.R.	Allandale, Ont.	Tightening up loose driver brake	–	1
" 11180	Mar. 2	G.T.R.	South River, Ont.	Pulling down chute to take coal	–	1
" 11183	Mar. 14	M.C.R.	Muirkirk, Ont.	Adjusting bell ringer	–	1

Inv.	11184	Mar. 18	G.T.R.	London ashpit, Ont.	Lighting torch in air door of fire-box	–	–	1	1
"	11187	Feb. 24	C.N.R.	Drumheller, Alta.	Climbing into seat box, when engine struck string of cars	–	–	1	1
"	11202	Mar. 23	M.C.R.	Springfield, Ont.	Fingers caught in fire-box door	–	–	1	1
"	11215	Mar. 15	C.N.R.	Brooksby, Sask.	Operating shaker bar which was in bad order	–	–	1	1
"	11217	Mar. 29	C.N.R.	Dalmeny, Sask.	Slipped off while climbing to repair head-light	–	–	1	1
"	11219	Mar. 26	C.P.R.	Winnipeg Yard, Man.	Slipped on deck of engine	–	–	1	1
"	11221	Mar. 26	C.N.R.	Winnipeg, Man.	Foot slipped while oiling engine	–	–	1	1
"	11224	Mar. 30	C.N.R.	Cottonwood Flats, B.C.	Struck on side of engine cab	–	–	1	1
"	11230	Mar. 12	G.T.R.	Coteau Coal Chute, Que.	Coaling engine, bolt in operating lever gave away	–	–	1	1
"	11246	Mar. 20	C.N.R.	Longue Point, Que.	Repairing blower pipe	–	–	1	1
"	11248	Mar. 26	G.T.R.	Quebec, Que.	Fell while wiping off front cab window	–	–	1	1
"	11250	Mar. 30	G.T.R.	Windsor, Ont.	Foot scalded when fireman stepped into pool of hot water	–	–	1	1
"	11253	Apr. 1	G.T.R.	Port Hope Jct., Ont.	Going over front of engine to light signal lamp	–	–	1	1
"	11254	Mar. 27	C.N.R.	Loverna, Sask.	Adjusting nut on pump throttle	–	–	1	1
"	11255	Mar. 29	C.N.R.	Blue River Yard, B.C.	Boot caught between apron and gangway of tender	–	–	1	1
"	11256	Mar. 18	C.N.R.	Alsask, Sask.	Oiling pump when engine coupled	–	–	1	1
"	11272	Mar. 3	C.N.R.	Hogarth, Ont.	Fell while going over tender	–	–	1	1
"	11275	Apr. 18	C.P.R.	Kenora roundhouse, Ont.	Walking along deck of tender of engine	–	–	1	1
"	11276	Apr. 18	C.P.R.	Wilkie, Sask.	Fell from running board of engine	–	–	1	1
"	11284	Apr. 24	G.T.R	Between Cowan and Ora, Ont.	Reverse lever slipped	–	–	1	1
"	11290	Apr. 15	G.T.R.	Brussels, Ont.	Fell from engine	–	–	1	1
"	11292	Mar. 24	C.P.R.	Galt Yard, Ont.	Fell from tender	–	–	1	1
"	11295	Apr. 12	G.T.R.	Hamilton, Ont.	Handling water spout	–	–	1	1
"	11297	Apr. 15	G.T.R.	Eastwood, Ont.	Foot caught in firebox	–	–	1	1
"	11304	Feb. 14	C.N.R.	Lucerne, B. C.	Jammed between engine and tender	–	–	1	1
"	11308	Apr. 19	C.N.R.	Pope, Man.	Shaker bar slipped	–	–	1	1
"	11309	Apr. 20	C.P.R.	M.P. 115½, Keewatin Sub., Ont.	Fell while walking over tender of engine	–	–	1	1
"	11314	Apr. 13	C.N.R.	Watrous Yard, Sask.	Opening up blow-off cock	–	–	1	1
"	11331	Apr. 4	C.N.R.	Stout, B.C.	Getting off rear of tender	–	–	1	1
"	11333	May 8	C.N.R.	Near Waldron, Sask.	Nipple of squirt hose broke off	–	–	1	1
"	11334	Apr. 29	C.N.R.	Parkman Water Tank, Sask.	Reaching to open spray arm	–	–	1	1
"	11365	Mar. 4	G.T.R.	Nixon, Ont.	Struck by ashpan	–	–	1	1
"	11366	May 4	C.P.R.	Parkdale Water Tank, Ont.	Foot turned over while getting off engine	–	–	1	1
"	11367	May 1	G.T.R.	St. Marys, Ont., 2 miles East	Shaking grates	–	–	1	1
"	11385	May 9	G.T.R.	Belleville Shop Track, Ont.	Foot slipped while getting down to inspect engine	–	–	1	1
"	11394	May 2	C.N.R.	M.P. 125, Ruel Subdivision, Ont.	Water glass broke	–	–	1	1
"	11395	Mar. 16	G.T.R.	Brockville, Ont.	Putting fire in, air door stuck open	–	–	1	1
"	11396	Apr. 21	C.P.R.	Sharbot Lake, Ont.	Getting off fireman's seat, caught foot on bar	–	–	1	1
"	11397	Apr. 18	C.N.R.	Astorville, Ont.	Fell while oiling engine	–	–	1	1
"	11402	Apr. 13	C.N.R.	Crystal Beach, Sask.	Caught in vestibule cab	–	–	1	1
"	11416	May 20	C.P.R.	Alexander, 1 mile west, Man.	Caught between reverse lever and brake valve	–	–	1	1
"	11417	May 8	C.P.R.	Rugby, Man.	Jammed between lever and boiler	–	–	1	1
"	11449	May 11	C.N.R.	Brandon, Man.	Water glass broke	–	–	1	1
"	11469	May 9	C.P.R.	M.P. 175, Brooks Sub., Alta.	Climbing out of engine cab	–	–	1	1
"	11470	May 30	C.P.R.	M.P. 4, La Riviere Sub., Man.	Caught between reverse lever and stud	–	–	1	1
"	11476	May 30	C.P.R.	Toronto Union Station, Ont.	Getting down from engine, slipped	–	–	1	1
"	11480	June 9	G.T.R.	Belleville, Ont.	Fell out of gangway of engine	–	–	1	1
"	11520	May 26	C.P.R.	M.P. 31, Swift Current Sub., Sask.	Putting lever back it went into reverse	–	–	1	1
"	11521	June 15	C.P.R.	Fort William Yard, Ont.	Fell while getting up onto fireman's seat	–	–	1	1
"	11522	June 15	C.P.R.	M.P. 38, Swift Current Sub., Sask.	Fell off running board of engine	–	–	1	1
"	11576	June 15	C.P.R.	M.P. 12, Taber Sub., Alta.	Squirt hose burst	–	–	1	1

No. 10.—Statement Showing Accidents to Employees While Working On or Under Engines, Investigated During the Year Ending December 31, 1922—(*Continued*).

File	Date	Railway	Place	Remarks	Killed	Injured
Inv. 11590	June 26	C.N.R.	Richmond Hill, Ont	Putting in fire, blaze flew out	–	1
" 11606	June 5	C.N.R.	Regina Sask	Turned injector and was struck by stream of hot water	–	1
" 11609	May 16	C.N.R.	Port Arthur, Caboose Track, Ont	Jammed by lever when dumping ashpan	–	1
" 11610	May 11	C.N.R.	Lazard, Machine Shop, Que	Fell while climbing on top of engine	–	1
" 11611	Apr. 28	C.P.R.	Between Andover and Aroostook, N.B.	Getting down off engine	–	1
" 11616	June 19	C.P.R.	Hawk Lake, Ont	Shaking grates	–	1
" 11617	June 13	C.P.R.	Molson Tank, Man	Pulling down water spout	–	1
" 11625	July 7	G.T.R.	Waterford Station, Ont	Struck by falling poker	–	1
" 11652	July 7	G.T.R.	Komoka, Ont	Shaking grates	–	1
" 11653	July 14	G.T.R.	Newmarket, Ont	Fell against handle of firebox door	–	1
" 11667	May 17	G.T.R.	Pt. St. Charles, Que	When engine coupled onto cars, fireman struck head on water gauge	–	1
" 11679	July 19	G.T.R.	Oakville, Ont	Flue burst on engine	–	1
" 11681	June 17	C.N.R.	Des Rivieres, Que	Turning valve to get water	–	1
" 11682	June 20	G.T.R.	Turcot ashpit, Que	Cleaning out fire on ashpit	–	1
" 11688	May 28	C.P.R.	Pembroke, Ont	Fell in front of drain cock on engine	–	1
" 11696	July 11	C.N.R.	Treat, Man	Squirt hose blew off	–	1
" 11697	July 21	C.P.R.	Moose Jaw Yard, Sask	Scalded when injector left open	–	1
" 11698	July 24	C.P.R.	M.P. 86, La Riviere Sub., Man	Right side rod broke	–	1
" 11702	July 14	C.N.R.	Fort Rouge, Man	Shaker bar slipped	–	1
" 11734	July 30	G.T.R.	Scarboro Jct., Ont	Fire blew back in firebox	–	1
" 11736	July 19	G.T.R.	Toronto, Bathurst St., Ont	Shaking grates	–	1
" 11739	July 31	G.T.R.	Stratford, Ont	Cylinder cock opened	–	1
" 11740	Aug. 1	G.T.R.	Ingersoll, Ont	Foot caught in reverse lever	–	1
" 11741	June 7	C.N.R.	Moira Pit, Ont	Shaking grates	–	1
" 11761	Aug. 4	C.P.R.	Moose Jaw, Sask	Fell account glove catching on split key	–	1
" 11786	June 13	C.N.R.	Montreal Tunnel, Que	Fell against motor	–	1
" 11794	Aug. 11	C.N.R.	Mount Albert, Ont	Struck knee on step of engine	–	1
" 11797	Aug. 7	C.N.R.	Jellicoe, Ont	Jammed between reach rod and run board	–	1
" 11799	June 30	C.P.R.	Ozone, 1½ miles West, Ont	Fell off top of engine	–	1
" 11805	Aug. 14	C.N.R.	Fort Rouge, Man	Injector broke	–	1
" 11808	Aug. 7	C.N.R.	Kinistino, Sask	Water glass broke	–	1
" 11811	July 29	G.T.R.	Danford Yard, Ont	Slipped off side of engine	–	1
" 11831	Aug. 17	C.N.R.	North Regina Tower, Sask	Opening valve squirt hose	–	1
" 11837	Aug. 17	G.T.R.	London Yard, Ont	Getting down from engine	–	1
" 11841	Aug. 14	C.P.R.	Winkler, Man	Taking bolt out of driving box	–	1
" 11848	July 21	C.P.R.	Kimberley Sub., end of track, B.C.	Strained back while reversing engine	–	1
" 11849	Aug. 14	C.P.R.	Toronto, coach yard, Ont	Removing screw from water glass	–	1
" 11868	Sept. 7	C.N.R.	Raymore, Sask	Fell when engine lurched	–	1
" 11886	Aug. 3	C.N.R.	Shaubaugua, Ont., M.P. 52.5	Shaker bar slipped	–	1
" 11887	Aug. 5	C.N.R.	Saskatoon, Sask	Opening fire-box door	–	1
" 11893	Aug. 21	G.T.R.	Lamable, Ont	Getting lamp from back of tender	–	1

Inv.	11895	Aug. 31	C.N.R.	Portage, Man	Caught in vestibule cab	–	1
"	11902	July 18	C.N.R.	Ste. Ursule, Que	Injector broke	–	1
"	11912	Sept. 3	C.N.R.	Lavenham, Man	Nuts pulled off valve rod	–	1
"	11913	Aug. 8	C.N.R.	Ferigin, Sask	Jammed between reverse gear	–	1
"	11914	Sept. 7	C.N.R.	Rivers, Man	Valve on squirt hose worked open	–	1
"	11921	Aug. 21	G.T.R.	Welland Jct., Ont	Sprinkling pipe broke	–	1
"	11923	Aug. 3	C.N.R.	St. Jerome, Que	Water glass burst	–	1
"	11947	Sept. 9	C.P.R.	Windsor, Ont	Slipped while going around air pump	–	1
"	11978	Sept. 23	G.T.R.	London, Ont	Arch tube blew out of tube sheet	–	1
"	12021	Sept. 15	C.P.R.	M.P. 88, Peterboro Sub., Ont	Getting through cab window	–	1
"	12025	Sept. 11	C.P.R.	Ignace Yard, Ont	Reversing engine	–	1
"	12033	Aug. 17	C.N.R.	Belmont, Man	Getting off engine	–	1
"	12053	Aug. 10	C.N.R.	Near Foleyet, Ont	Fell on reverse lever	–	1
"	12059	Sept. 9	C.P.R.	Port McNicoll, Ont	Fell on air guage	–	1
"	12060	Sept. 26	G.T.R.	South of Varney, Ont	Springer hanger broke	–	1
"	12067	Aug. 23	C.N.R.	Lytton, B. C	Dumping ashpan	–	1
"	12071	Sept. 14	C.N.R.	Albreda coal dock, B.C	Getting down from engine	–	1
"	12079	Sept. 17	C.N.R.	Elie, Man	Assisting in shaking grates	–	1
"	12080	Sept. 24	C.N.R.	Torence, Man	Slipped on deck of engine	–	1
"	12083	Oct. 2	C.P.R.	Rosenfeld, Man	Fell off running board	–	1
"	12098	Oct. 10	C.P.R.	Bonhein, Ont	Hand caught in vestibule of cab	–	1
"	12099	Oct. 6	C.P.R.	Winnipeg, Man	Caught between engine and tender	–	1
"	12100	Oct. 9	G.T.R.	Caledonia, Ont	Dust-plate fell on foot	–	1
"	12105	Sept. 30	C.N.R.	Cromer, Sask	Struck head while getting on engine	–	1
"	12106	Oct. 3	C.N.R.	M.P. 4·5, Yorkton Sub., Sask	Shaker bar slipped	–	1
"	12118	Sept. 24	C.N.R.	Hanna, Alta	Dropped squirt hose when water glass broke	–	1
"	12164	Sept. 24	C.N.R.	Kamsack, Sask	Water blew out of valve	–	1
"	12167	Oct. 3	C.N.R.	Delisle, Sask	Ashpan props slipped	–	1
"	12170	Oct. 5	C.N.R.	Drumheller, Alta	Getting down off coal in tender	–	1
"	12174	Sept. 22	C.N.R.	Kensaton, Sask	Dumping ashpan	–	1
"	12188	Oct. 15	C.N.R.	Munson, Alta	Shaker bar slipped	–	1
"	12215	Oct. 18	G.T.R.	Sunridge, Ont	Putting in fire when lump of coal fell	–	1
"	12227	Oct. 15	C.P.R.	Outremont Yard, Que	Slipped on running board	–	1
"	12241	Oct. 23	TH & B.	Stoney Creek, 1 mile west, Ont	Flue burst on engine	–	1
"	12246	Oct. 21	C.P.R.	Grasshill, Ont	Sprinkler hose pipe broke	–	1
"	12285	Oct. 20	C.N.R.	Joliette, Que	Trying to close valve spout	–	1
"	12290	Nov. 8	C.P.R.	Grafton, Ont	Entering cab through window	–	1
"	12297	Nov. 1	C.N.R.	Drumheller Yard, Alta	Jumped off engine	–	1
"	12298	Oct. 22	C.P.R.	Savanne, Ont	Slipped while shovelling coal forward on tender	–	1
"	12301	Oct. 19	C.N.R.	Lampiere, B.C	Struck hand on air gauge	–	1
"	12302	Nov. 11	C.P.R.	Dyment, Ont	Arm jammed in reverse lever	–	1
"	12303	Nov. 3	C.P.R.	Wolseley, Sask	Extinguishing fire in hot box with water causing explosion	–	1
"	12304	Nov. 5	C.N.R.	Calvin, Man	Dumping ashpan	–	1
"	12305	Oct. 29	C.P.R.	Minnedosa, Man	Water glass blew out	–	1
"	12306	Oct. 18	C.P.R.	Riverville, Man	Throwing reverse lever over	–	1
"	12308	Oct. 22	C.N.R.	M.P. 69, Shilo, Man	Engine backed fire	–	2
"	12324	Oct. 3	C.N.R.	Alderdale, Ont	Climbing over tank of engine	–	1
"	12369	Oct. 23	C.P.R.	Eagle River, Ont	Climbing into cab of engine	–	1
"	12377	Nov. 1	C.N.R.	Eastview, Sask	Poking fire caught wrist	–	1
"	12378	Nov. 2	C.N.R.	North Battleford, Sask	Shaking grates	–	1

No. 10.- STATEMENT Showing Accidents to Employees While Working On or Under Engines, Investigated During the Year Ending December 31, 1922—(*Concluded*).

File	Date	Railway	Place	Remarks	Killed	Injured
Inv. 12381	Nov. 7	C.P.R.	Caron, Sask.	Letting down reverse lever	-	1
" 12383	Oct. 29	C.P.R.	Swift Current, Sask.	Hooking up reverse lever	-	1
" 12404	Dec. 2	C.P.R.	LaRiviere Sub., M.P. 76, Man.	Flue in firebox burst	-	1
" 12418	Nov. 21	G.T.R.	Georgetown Station, Ont.	Fell off deck of engine	-	1
" 12419	Nov. 18	C.P.R.	Guelph Jct., Ont.	Oiling engine	-	1
" 12438	Oct. 6	C.P.R.	M.P. 94, Boundary Sub., B.C.	Slipped off run board	-	1
" 12453	Nov. 7	C.P.R.	North Portal, Sask.	Coal scoop fell on head	-	1
" 12454	Nov. 21	C.P.R.	Binscarth, Man.	Caught between apron and top of cab	-	1
" 12457	Dec. 1	C.N.R.	Fort Rouge, Man.	Struck by reverse lever	-	1
" 12458	Dec. 2	C.P.R.	M.P. 10, Gretna Sub., Man.	Injector blew off	-	1
" 12475	Nov. 7	G.T.R.	Montreal, Canal Bank, Que.	Shaking grates	-	1
" 12476	Nov. 6	G.T.R.	Montreal, Bonaventure Station, Que.	Fell on foot plate of engine	-	1
" 12485	Nov. 25	C.P.R.	London, Ont.	Scalded by hot water from release valve	-	1
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No. 11.—Statement Showing the Number of Highway Crossing Accidents with the Total Number of Killed and Injured by Provinces for Twelve Months Ending December 31, 1922.

Name of Railway	Nova Scotia			New Brunswick			Quebec			Ontario			Manitoba			Saskatchewan			Alberta			British Columbia			Total		
	Acc.	K.	I.	Acc.	K.	I.	Acc.	K.	I.	Acc.	K.	I.	Acc	K.	I.	Acc.	K.	I.	Sec.	K.	I	Acc.	K.	I.	Acc.	K.	I
Canadian Pacific	1	....	1	4	1	6	13	9	18	22	8	23		6	1	1	0 5	1	5	4	2	3	2	1	2	57	23	68
Grand Trunk	....	....	....	....	....	....	10	6	8	58	11	72	....	....	....	....	....	....	....	....	....	....	....	....	....	68	17	80
Canadian National	2	....	2	....	....	....	6	3	10	7	1	10		6	1	8	11	3	14	3	2	5	....	....	....	35	10	49
Michigan Central	....	....	....	....	....	....	....	....	....	14	14	12	....	....	....	....	....	....	....	....	....	....	....	....	....	14	14	12
Great Northern	....	....	....	....	....	....	....	....	....	....	....	....		1	....	4	....	....	....	....	....	....	1	....	1	2	....	5
Toronto, Hamilton and Buffalo	....	....	....	....	....	....	....	....	....	1	....	2	....	....	....	....	....	....	....	....	....	....	....	....	....	1	....	2
Hull Electric	....	....	....	....	....	....	1	....	1	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	1	....	1
Quebec Central	....	....	....	....	....	....	1	....	1	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	1	....	1
London and Port Stanley	....	....	....	....	....	....	....	....	....	3	1	3	....	....	....	....	....	....	....	....	....	....	....	....	....	3	1	3
Quebec, Montreal and Southern	....	....	....	....	....	....	1	....	1	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	1	....	1
Kettle Valley	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	1	....	2	1	....	2
Esquimalt and Nanaimo	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	1	....	1	1	....	1
Niagara, St. Catharines and Toronto	....	....	....	....	....	....	....	....	....	2	....	2	....	....	....	....	....	....	....	....	....	....	....	....	....	2	....	2
Lake Erie and Northern	....	....	....	....	....	....	....	....	....	1	....	1	....	....	....	....	....	....	....	....	....	....	....	....	....	1	....	1
Grand River	....	....	....	....	....	....	....	....	....	1	....	1	....	....	....	....	....	....	....	....	....	....	....	....	....	1	....	1
Napierville Junction	....	....	....	....	....	....	1	1	4	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	1	1	4
Pere Marquette	....	....	....	....	....	....	....	....	....	1	....	1	....	....	....	....	....	....	....	....	....	....	....	....	....	1	....	1
Hamilton Radial	....	....	....	....	....	....	....	....	....	1	....	1	....	....	....	....	....	....	....	....	....	....	....	....	....	1	....	1
Brantford and Hamilton	....	....	....	....	....	....	....	....	....	1	....	2	....	....	....	....	....	....	....	....	....	....	....	....	....	1	....	2
	3	....	3	4	1	6	33	19	43	112	35	130	13	2	22	16	4	19	7	4	8	5	1	6	193	66	237

No. 12—STATEMENT Showing Highway Crossings at which Protection Provided, the Nature of Protection, During Period of Twelve Months Ending December 31, 1922.

File Number	Order Number	Location of Crossing	Railway	Nature of Protection
26765·197	31952	Glen Robertson, Ont., first crossing east	G.T.R	Embankment and trees cut down.
26727·88	31973	Kendry, Ont., crossing at mileage 30·4	C.P.R	Brush out down and trees trimmed.
26765·97	31978	Princeton, Ont., Main Street	G.T.R	Double illuminated electric bell, together with wig-wag signals, and all westbound movements on north siding be flagged across.
27156·44	31980	Iberville Jct., Que., at Mile 18·8	C.P.R	Two double electric automatic illuminated bells with wig-wag signals.
9437·1248	31985	Hawkesbury, Ont., Regent street	G.T.R	Protection by trainman in lieu of bell.
9437·44	31986	Hawkesbury, Ont., Main street.	G.T.R	Protection by trainman in lieu of watchman.
26765·198	31991	Dunnville, Ont., four miles East.	G.T.R	Standard warning signs erected on highway.
29529	32004	Ardley, B.C., Douglas avenue	G.N.R	Automatic bell with wig-wag signal.
26765·209	32008	Peterboro, Ont., Argyle street	G.T.R	Wig-wag signal.
9437·1223	32021	Brantford, Ont., 1st crossing 2 miles west	G.T.R	Standard warning signs erected on highway.
27467.16	32022	Regina, Sask., Eighth avenue	C.N.R	Automrdatic bell, together with wig-wag signal.
9437·1032	32039	Burlington, Ont., Water street	G.T.R	Permanent speed restriction of 10 miles per hour; and that all cars of H.R. Co., come to stop before passing over said crossing.
12024·1	32031	Regina, Sask., Dewdney avenue	C.N.R	Automatic bell, together with wig-wag signal.
26711·24	32050	Harrowsmith, Ont., 1¼ miles west	C.N.R	Trees cut down at North-east corner of crossing.
24316	32075	Golf street, North Bay, Ont	C.P.R	Watchman 7 a.m. to 12 midnight from May 1 to Oct. 31 in each year.
26765·206	32102	Stratford, Ont., 2nd crossing west	G.T.R	Removal of brush.
26727·90	32118	Cavan, Ont., 1st crossing west	C.P.R	Removal of brush and trees trimmed.
588·28	32145	Toronto, Ont., George street	C.P.R. and G.T.R.	In addition to watchman maintained, a second watchman appointed by G.T.R. to protect crossing fro 6.30 a.m. to 6.30 p.m. daily, one man to be placed on north side and other on south side.
9437·178	32147	Port Credit, Ont., Stave Bank road	G.T.R	Double automatic bell, together with wig-wag signals, on each side of crossing.
20961	32129	Twp. Crowland, Ont., River Road crossing	T. H. and B	Automatic bell, light and wig-wag.
26765·204	32181	Mount Dennis, Ont., Fifth avenue	G.T.R	Cinder sidewalk extended.
26727·85	32165	Alliston, Ont., Victoria street	C.P.R	Illuminating feature added to bell already installed.
28067·	32167	Windsor, N.S., Wentworth St.	D.A.R	Automatic bell, together with wig-wag signal in lieu of gates and watchman.
26765·219	32204	Ilderton, Ont., Main street	G.T.R	Permanent speed restriction of 10 miles per hour; and cars kept back occupying siding on each side of crossing at least 100 feet from street; coal shed on south side to be moved back so that a car spotted at same will not be closer than the said 100 feet.
26765·11		Grimsby, Ont., 2nd crossing east	G.T.R	Standard warning signs erected on highway.
26324		Port Arthur, Ont., May street	C.N.R	Removal of brush.
26711·31	32249	Shawinigan Falls, Que., Main road	C.N.R	Automatic bell, together with wig-wag signal.

26722·41	.....	Colborne, Ont., crossing ¾ miles west.....	C.P.R.....	Cars to be kept back from street line on spur track.
9437·1007	32236	Woodstock., Ont., Wilson street.....	G.T.R.....	In addition to bell already installed, wig-wag signal to be added.
27073·8	32284	Lytton, B.C., First crossing west.....	C.P.R.....	Removal of cut from south side of crossing.
3701·236	32287	Belleville, Ont., 2 miles east, Kingston road.....	C.P.R.....	Crossing to be altered and made to cross track at right angle instead of skew.
26765·217	32289	Eganville, Ont., Perrottes crossing.....	G.T.R.....	Removal of trees and shrubs.
26727·92	32329	Ingersoll, Ont., Union road.....	C.P.R.....	Removal of trees.
9437·779	32335	M.P. 61, Peterboro Sub., Raglan road.....	C.P.R.....	Removal of earth south and north of crossing.
18490	32359	Grindrod, B.C., first crossing north.....	C.P.R.....	Standard warning signs erected.
27467·25	.....	North Battleford, Sask., Robt, street.....	C.N.R.....	Permanent speed restriction of 10 miles per hour.
26765·216	32443	Cainsville, Ont., Frost crossing.....	G.T.R.....	Removal of trees; and board fence replaced with wire fence.
26765·223	.....	Hickson, Ont., first crossing north.....	G.T.R.....	Permanent speed restriction of 10 miles per hour.
28786·15	.....	Edmonton, Alta., 101st Street crossing.....	C.N.R.....	Permanent speed restriction of 6 miles per hour.
9437·116	32401 32485	St. John's, Que., St. James St.....	G.T.R.....	Gates to be operated between 6.30 a.m. and 10.30 p.m. instead of 7 a.m. to 7 p.m.; also slow order when gates not in operatior.
26765·201	.....	Port Colborne, Ont., Catherine St.....	G.T.R.....	Permanent speed restriction of 10 miles per hour.
9437·547	.....	Peterboro, Ont., Park and Westcott streets.....	G.T.R.....	Permanent speed restriction of 10 miles per hour.
9437·294	.....	Huntersville, Ont., Muskoka and Sheer streets.....	G.T.R.....	Permanent speed restriction of 10 miles per hour.
9437·709	32554	Grimsby Beach, Ont., just east of station.....	G.T.R.....	Two automatic bells, in lieu of watchman, with wig-wag signals.
26842·3	32548	Brookfield, Ont., 2 miles west.....	M.C.R.....	Removal of trees.
26782·20	.....	Montreal East, Que.....	C.N.R.....	Permanent speed restriction of 10 miles per hour.
25791	32681	Walkerville, Ont., Seminole street.....	P.M.R.....	Wig-wag signal in addition to bell already installed.
26842·20	32658	Welland, Ont., 4 miles west.....	M.C.R.....	Removal of trees.
26842·21	32659	Leamington, Ont., 1½ miles north.....	M.C.R.....	Removal of trees.
28786·14	32679	Acheson, Alta., at M.P. 806·3.....	C.N.R.....	Grades brought up to standard; scrub and brush cut down.
10683	32737	Walkerville, Ont., Edna street.....	P.M.R.....	Cars to be kept back 50 feet from street; all switching movements on all tracks over crossing to be flagged; and speed of trains not to exceed 6 miles per hour when operating over crossing.
9437·417	.....	Dunnville, Ont., Cedar street.....	G.T.R.....	Permanent speed restriction of 10 miles per hour.
27652·20	32766	Norton Mills, Que., Stanhope crossing.....	G.T.R.....	Removal of lumber piles near crossing.
26744·31	.....	Portage la Prairie, Man., 1st crossing west.....	C.N.R.....	Permanent speed restriction of 10 miles per hour.
17700	.....	Blairmore, Alta., 9th avenue.....	C.P.R.....	Permanent speed restriction of 10 miles per hour.
26842·27	32798	Stevensville, Ont., one mile east.....	M.C.R.....	Removal of trees.
C—2400	32804	Twp. Ancaster, Ont., lot 44.....	B. & H. Elec.	Removal of trees and obstructions.
26842·25	32824	Brigden, Ont., 2nd crossing east.....	M.C.R.....	Removal of trees.
26765·230	32827	Cheltenham, Ont., 4th line.....	G.T.R.....	Removal of trees and embankment.
30391	.....	Port Stanley, Ont.....	L. & P.S.....	Permanent speed restriction of 10 miles per hour.
26722·41	32900	Twp. Cramahe, Ont., Lakeport road.....	C.P.R.....	Removal of trees.
27401·10	32916	Bath, N.B., Mechanic street.....	C.P.R.....	Wig-wag be applied to bell already installed.
27401·11	32913	Fairville, N.B., Milford street.....	C.P.R.....	Wig-wag be applied to bell already installed.
29529·1	32925	Ardley, B.C., Boundary road.....	G.N.R.....	Scrub and trees to be removed.
26765·231	.....	Varney, Ont., 1½ miles south.....	G.T.R.....	Removal of trees and knoll.
3878·67	32952	Cobourg, Ont., 3rd crossing east.....	C.N.R.....	Embankments removed.
26727·96	32938	Cataraqui, Ont., Sydenham road.....	C.P.R.....	Removal of trees.
27218·3	32951	Bridgewater, N.S., Aberdeen street.....	H. & S.W.....	All train movements to be flagged over by trainman.

No. 12—STATEMENT Showing Highway Crossings at which Protection Provided, the Nature of Protection, During Period of Twelve Months Ending December 31, 1922—*Concluded*

File Number	Order Number	Location of Crossing	Railway	Nature of Protection
1872·5	.....	Washago, Ont., Orillia street	G.T.R.	Standard warning signs erected; cars to be kept back 350 feet from street line.
9437·735	33014	Burlington, Ont., 1st crossing west	G.T.R	Cars to be kept on north siding between derail and west end of station.
27365·17	.....	Oakbank, Sask., 2 miles west	C.N.R.	Permanent speed restriction of 10 miles per hour.
26711·13	.....	Capreol, Ont., Yonge street	C.N.R.	Permanent speed restriction of 10 miles per hour.
9437·851	33050	Thornton, Ont., 2nd crossing north	G.T.R.	Trees trimmed.
27467·26	.....	Saskatoon, Sask., 8th street	C.N.R.	Brush cut down; and permanent speed restriction of 10 miles per hour.
28116·1	33048	Near Maidstone, Ont., Town line road	W.E &L.S.	Removal of trees.
26765·133	33099	St. Catharines, Ont., John street	G.T.R.	Cars to be kept back a distance of 40 feet from street line.
15499·109	33030	Brantford, Ont., South Market street	G.T.R.	Watchman.
26765·127	33106	St. Catharines, Ont., Page street	N. St. C. & T. G.T.R	Cars to be kept back a distance of 40 feet from street line.
31981	33052	Kingston Junction, Ont., Perth road	G.T.R.	Two automatic bells with wig-wag signals.
9437·256	33149	Perth, Ont., Craig street	C.P.R.	Double electric bell and wig-wag signal.
27467·29	33159	Wadona, Sask., Main street	C.N.R.	Cars standing on business or elevator track to be kept back clear of the street line; and that movements made on passing track be flagged off.
26765·239	33164	Rosebank, Ont., crossing near	G.T.R.	Removal of trees.
27652·18	33165	Lennoxville, Que., Massawippi crossing	G.T.R.	Removal of banks.
26765·233	33163	Renton, Ont., 1st crossing east	G.T.R.	Automatic bell; with wig-wag signal.
27652·24	33181	Barrington, Que., 1st crossing west	G.T.R.	Removal of bushes.
27073·11	33200	Chemainus, B.C., 2·4 miles south	E. & M.	Removal of brush.
6256·5	.....	Saskatoon, Sask., Avenue "I"	C.N.R.	Permanent speed restriction of 6 miles per hour
32109	.....	Kitchener, Ont., Mill street	G.R.R.	Permanent speed restriction of 10 miles per hour.
27156·56	33231	Rock Forest, Que., 1st crossing east	C.P.R.	Removal of embankment.
26765·248	.....	Fenelon Falls, Ont., Lindsay street	G.T.R.	Permanent speed restriction; cars kept back from street line.
28615·5	.....	Quebec, Que., Parent street	C.P.R.	Permanent speed restriction of 10 miles per hour.
26765·238	33261	Marshville, Ont., ½ mile east	G.T.R.	Removal of hedge and trees.

No. 13.—STATEMENT Showing the Number of Highway Crossings at which Protection has been Ordered, and the Nature of Protection Set Out by Provinces, for Twelve Months Ending December 31, 1922.

	Nova Scotia	New Brunswick	Quebec	Ontario	Manitoba	Saskatchewan	British Columbia	Alberta	Total
Removal of view obstructions (trees, banks, buildings, etc.)			4	25			3	1	33
Protection by trainman in lieu of bell				1					1
Protection by trainman in lieu of watchman				1					1
Double bell and wig-wag			1	3					4
Automatic bell and wig-wag			1	2		2	1		6
Wig-wag				1					1
Double bell and wig-wag in lieu of watchman				2					2
Automatic bell and wig-wag in lieu of gates	1								1
Wig-wag added to bell		2		2					4
Illuminating feature added to bell already installed				1					1
Advance warning signs on highway				3			1		4
Advance warning signs and card kept back 350 feet				1					1
Speed restriction of 10 miles per hour			2	11	1	2		1	17
Speed restriction of 10 miles per hour and cars kept back 100 feet; and coal shed moved				1					1
Speed restriction of 6 miles per hour						1		1	2
Watchman				1					1
Watchman 7 a.m. to 12 midnight; May to October				1					1
Watchman 6.30 a.m. to 6.30 p.m. daily				1					1
Side-walk extended				1					1
Cars to be kept back from street line on spur track				4					4
Cars kept back 50 feet; switching movements to be flagged; and speed restriction of 6 miles per hour				1					1
Cars on elevator track kept clear of street line; movements on passing track to be flagged						1			1
Cars kept back from street line; and speed restriction of 10 miles per hour				1					1
Brush cut down and speed restriction of 10 miles per hour						1			1
Crossing made right angle instead of skew				1					1
Gates operated part time and speed restriction of 10 miles per hour balance of time			1						1
Train movements flagged by trainman	1								1
	2	2	9	65	1	7	5	3	94

No. 14.—STATEMENT Showing Number of Persons Killed and Injured at Public Highway Crossings, Separately, for Each Year, for Year Ending March 31, 1919, Nine Months Ending December 31, 1919, Twelve Months Ending December 31, 1920, Twelve Months Ending December 31, 1921, and Twelve Months Ending December 31, 1922.

Year	Gates		Bell		Watchman		Unprotected		Total	
	K.	I.	K.	I	K.	I.	K.	I.	K.	I.
1919	3	20	10	20	1	7	27	115	41	162
Nine months ending Dec. 31, 1919	4	9	4	7	4	9	36	138	48	163
1920	6	14	6	29	4	8	52	164	68	215
1921	5	13	14	27	1	8	50	166	70	214
1922	2	10	5	16	1	9	58	202	66	237
	20	66	39	99	11	41	223	785	293	991

No. 15.– STATEMENT Showing Number of Highway Crossing Accidents, the Nature of Same, for Each and Every Year Separately for Year Ending March 31, 1919, Nine Months Ending December 31, 1919, Twelve Months Ending December 31, 1920, Twelve Months Ending December 31, 1921, and Twelve Months Ending December 31, 1922.

	Gates						Watchman						Bell						Unprotected						Total					
	1919	9 mos 1919	1920	1921	1922	Total	1919	9 mos 1919	1920	1921	1922	Total	1919	9 mos. 1919	1920	1921	1922	Total	1919	9 mos. 1919	1920	1921	1922	Total	1919	9 mos. 1919	1920	1921	1922	Total
Automobile	3	4	4	3	2	*16*	1	1	2	4	2	*10*	13	5	17	15	10	*60*	49	50	93	92	95	*379*	66	60	116	114	109	*465*
Horse and rig	...	...	2	2	...	*4*	..	1	2	1	2	*6*	1	.	7	6	6	*20*	28	25	33	32	38	*156*	29	26	44	41	46	*186*
Pedestrian	17	4	13	10	7	*51*	6	3	3		3	*15*	3	1	3	4	1	*12*	21	22	12	20	17	*92*	47	30	31	34	28	*170*
	20	8	19	15	9	*71*	7	5	7	5	7	*31*	17	6	27	25	17	*92*	98	97	138	144	150	*627*	142	116	191	189	183	*821*

The total of 821 accidents covers 293 persons killed and 991 persons injured, as referred to in preceding statement.

No. 16—Statement Showing the Number of Trespassers Killed and Injured by Provinces and Railways for Year Ending December 31, 1922.

	Nova Scotia		New Brunswick		Quebec		Ontario		Manitoba		Saskatchewan		Alberta		British Columbia		Total	
	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.
Grand Trunk	....	....	....	....	6	10	15	19	....	....	....	....	....	....	....	....	21	29
Canadian Pacific	....	....	1	....	10	4	17	13	1	2	2	5	2	4	1	3	34	31
Canadian National	....	....	....	....	....	5	2	5	....	1	1	1	....	3	1	8	4	23
Michigan Central	....	....	....	....	....	....	5	3	....	....	....	....	....	....	....	....	5	3
Toronto, Hamilton and Buffalo	....	....	....	....	....	....	1	....	....	....	....	....	....	....	....	....	1	....
Quebec, Montreal and Southern	....	....	....	....	....	1	....	....	....	....	....	....	....	....	....	....	....	1
New York Central	....	....	....	....	1	....	....	....	....	....	....	....	....	....	....	....	1	....
Grand River	....	....	....	....	....	....	....	1	....	....	....	....	....	....	....	....	....	1
Windsor, Essex and Lake Shore	....	....	....	....	....	....	1	....	....	....	....	....	....	....	....	....	1	....
Algoma Central and Hudson Bay	....	....	....	....	....	....	1	1	....	....	....	....	....	....	....	....	1	1
Dominion Altantic	1	1	....	....	....	....	....	....	....	....	....	....	....	....	....	....	1	1
Maine Central	....	....	....	....	1	....	....	....	....	....	....	....	....	....	....	....	1	....
Oshawa	....	....	....	....	....	....	1	....	....	....	....	....	....	....	....	....	1	....
Total	1	1	1	....	18	20	43	42	1	3	3	6	2	7	2	11	71	90

No. 17.—STATEMENT Showing the Number of Persons Killed and Injured on the Various Railways Under the Jurisdiction of the Board from April 1, 1914, until March 31, 1919, Nine Months Ending December 31, 1919, Twelve Months Ending December 31, 1920, Year Ending December 31, 1921, and Year Ending December 31, 1922.

Year	Passengers		Employees		Others		Total	
	K.	I.	K.	I.	K.	I.	K.	I.
1914	31	339	249	1,250	314	310	594	1,899
1915	8	239	99	873	230	251	337	1,365
1916	17	140	120	788	200	197	337	1,125
1917	16	280	155	1,174	212	239	383	1,693
1918	22	342	137	1,220	174	268	333	1,830
1919	28	202	117	1,344	119	267	264	1,813
1919—9 months	4	274	91	951	128	277	223	1,502
1920	17	379	80	1,570	157	381	254	2,330
1921	4	240	91	1,344	148	344	243	1,928
1922	5	376	83	2,084	155	396	243	2,856
	152	2,811	1,222	12,598	1,837	2,930	3,211	18,339

No. 18.—STATEMENT Showing Number of Persons Killed and Injured in the More Prominent Accidents on the Various Railways under the Jurisdiction of the Board Shown Separately for each Year for the Year Ending March 31, 1919; Nine Months Ending December 31, 1919; Twelve Months Ending December 31, 1920; Twelve Months Ending December 31, 1921; and Twelve Months Ending December 31, 1922.

	1919		9 months 1919		1920		1921		1922		Total	
	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.	K.	I.
Derailment	9	159	13	247	11	316	12	159	10	215	55	1,096
Collision head on	8	57	4	85	.....	66	2	33	.....	64	14	305
Collision rear end	3	53	1	15	14	58	2	28	3	30	23	184
Collision in yard	2	40	.....	21	2	45	1	43	1	57	6	206
Collision with cars, open switch	1	7	2	20	.....	21	2	6	.....	6	5	60
Collision with cars standing foul	.....	1	.....	1	.....	4	.....	15	.....	5	.....	26
Collision at level (diamond) crossing	3	18	.....	3	.....	4	.....	7	.....	13	3	45
Highway crossing protected	14	47	12	25	16	51	20	48	8	35	70	206
Highway crossing unprotected	27	115	36	138	52	164	50	166	58	202	223	785
Adjusting couplers, coupling, etc	6	75	3	59	6	101	.....	69	5	79	20	383
Trespassing	77	102	64	68	73	120	64	91	71	90	349	471
Hand car, motor, struck by train	10	15	7	8	6	44	9	59	10	38	42	164
Struck by switch stand, etc	2	22	.....	25	.....	43	1	31	.....	42	3	163
Crushed between cars and buildings	3	13	.....	6	.....	16	2	8	2	16	7	59
Falling off passenger train	7	7	1	17	3	24	3	18	1	13	15	79
Falling off top of car	2	37	7	37	3	33	3	16	2	53	17	176
Falling between cars	3	9	1	5	3	2	2	7	3	11	12	34
Jumping off train in motion	5	46	1	54	4	62	3	64	8	117	21	343
Attempt to board train in motion	3	35	1	31	..	57	3	38	1	62	8	223
Run down by engine or car	32	54	27	41	26	76	18	57	26	62	129	290
Locomotive dropping crown sheet	1	8	.....	4	.....	..	.....	.....	.....	7	1	19
	218	920	180	910	219	1,307	197	963	209	1,217	1,023	5,317

No. 19.—Statement Showing Number of Cars Inspected Together with Defects for Twelve Months Ending December 31, 1922.

Name of Railway	Cars Inspected	Cars Defective	Per cent Defective	Grand Total Defects	Couplers and parts	Per cent Defective	Uncoupling Mechanism	Per cent Defective	Hand-holds	Per cent Defective
Canadian Pacific	33,752	1,671	4·95	1,836	47	2·50	280	15·25	88	4·79
Grand Trunk	23,630	1,042	4·41	1,169	47	4·02	151	12·91	23	1·96
Canadian National	16,319	995	5·42	1,129	15	1·32	235	20·81	69	6·11
Pere Marquette	785	32	4·08	36			2	5·55		
Toronto, Hamilton and Buffalo	1,388	47	3·40	55	1	1·80	4	7·27	1	1·80
E. D. and B.C	175	34	19·43	38			3	7·79	6	15·70
Boston and Maine	105	4	3·81	4						
Michigan Central	4,260	112	2·63	124	3	2·41	9	7·25	2	1·61
Dominion Atlantic	152	19	12·43	22			3	13·63	1	4·54
Great Northern	615	30	4·88	34	1	2·94	8	23·52	2	5·88
Kettle Valley	205	6	2·92	7					1	14·28
Algoma Central	235	9	3·83	13			1	7·69		
Esquimalt and Nanaimo	507	56	11·05	64			7	10·93	12	18·75
	82,128	4,057	4·94	4,531	114	2·51	703	15·51	205	4·52

Name of Railway	Air brakes	Per cent Defective	Ladders	Per cent Defective	Sill steps	Per cent Defective	Height of Couplers	Per cent Defective	Miscel-laneous	Per cent Defective
Canadian Pacific	1,068	58·16	56	3·05	180	9·85	31	1·68	86	4·68
Grand Trunk	845	72·28	27	2·37	30	2·56	5	0·42	41	3·50
Canadian National	522	46·23	13	1·15	171	15·14	22	1·94	83	7·35
Pere Marquette	31	86·11	1	2·77	1	2·77			1	2·77
Toronto, Hamilton and Buffalo	44	80·00	2	3·80					3	5·40
E. D. and B. C	18	47·32	2	5·20	7	18·42	1	2·80	1	2·80
Boston and Maine	3	75·00							1	25·00
Michigan Central	99	79·83	5	4·03	3	2·41			3	2·41
Dominion Atlantic	12	54·55	3	13·63	3	13·63				
Great Northern	16	27·05	1	2·94	1	2·94	2	5·88	2	5·88
Kettle Valley	4	57·14							2	28·57
Algoma Central	11	84·61			1	7·69				
Esquimalt and Nanaimo	23	35·93	2	3·12	13	20·31	1	1·56	6	9·37
	2,696	59·50	112	2·47	410	9·04	62	1·36	229	5·05

No. 20.—Statement Showing Defective Safety Appliances on Freight Cars as Reported by the Inspectors for Twelve Months Ending December 31, 1922.

COUPLERS AND PARTS

Coupler body broken	9
Coupler body worn	–
Guard arm short	–
Knuckle broken	3
Knuckle worn	1
Knuckle missing	9
Knuckle pin broken	3
Knuckle pin wrong	–
Knuckle pin bent	–
Knuckle pin missing	7
Lock block broken	73
Lock block worn	–
Lock block wrong	–
Lock block bent	–
Lock block inoperative	4
Lock block missing	4
Lock block key missing	1
Lock block trigger missing	–
Total	114

UNCOUPLING MECHANISM

Uncoupling lever broken	26
Uncoupling lever wrong	17
Uncoupling lever bent	45
Uncoupling lever incorrectly applied	14
Uncoupling lever missing	19
Uncoupling chain broken	503
Uncoupling chain too long	1
Uncoupling chain too short	1
Uncoupling chain kinked	7
Uncoupling chain missing	29
End casting broken	9
End casting wrong	–
End casting bent	2
End casting loose	2
End casting incorrectly applied	1
End casting missing	5
Keeper broken	9
Keeper wrong	1
Keeper loose	–
Keeper bent	–
Keeper incorrectly applied	–
Keeper missing	5
Angle clip loose	–
Total	703

HANDHOLDS

Handhold broken	29
Handhold bent	98
Handhold loose	61
Handhold incorrectly applied	9
Handhold missing	8
Total	205

HEIGHT OF COUPLERS

Coupler too high	4
Coupler too low	22
Carrier iron loose	36
Total	62

AIR BRAKES

Triple valve defective	–
Triple valve missing	–
Reservoir defective	–
Reservoir loose	2
Cylinder defective	34
Cylinder loose	56
Cylinder and triple valve not cleaned within twelve months	258
Cylinder and triple valve not stencilled with date of cleaning	6
Cut out cock defective	49
Release cock defective	2
Release cock missing	–
Release rod broken	147
Release rod missing	106
Angle cock defective	83
Angle cock missing	3
Train pipe broken	12
Train pipe loose	164
Train pipe bracket missing	19
Cross-over pipe defective	13
Hose defective	–
Hose missing	50
Hose gasket missing	3
Retaining valve defective	79
Retaining valve missing	11
Retaining pipe defective	151
Retaining pipe missing	1
Brake rigging defective	258
Brake cut out	1,184
Brake cut out, card old	2
No Brake of any kind	3
Pump missing	–
Total	2,696

LADDERS

Ladder round broken	13
Ladder round bent	66
Ladder round loose	8
Ladder round missing	5
Ladder loose	17
Ladder incorrectly applied	3
Total	112

SILL STEPS

Sill step broken	8
Sill step bent	208
Sill step loose	173
Sill step incorrectly applied	1
Sill step missing	10
Total	410

Miscellaneous—Total	229
Grand Total	4,531

No. 21-A—STATEMENT of defects on Freight Cars Shown Separately for Year Ending March 31, 1919, Nine Months Ending December 31, 1919, Twelve Months Ending December 31, 1920, Twelve Months Ending December 31, 1921, and Twelve Months Ending December 31, 1922.

——	1919	Nine months ending Dec. 31, 1919	Twelve months ending Dec. 31, 1920	1921	1922	Total
Couplers and parts	109	71	139	89	114	522
Uncoupling mechanism	809	398	657	717	703	3,284
Handholds	152	55	123	234	205	769
Air brakes	2,959	1,507	2,318	2,925	2,696	12,405
Ladders	142	71	166	254	112	745
Sill steps	236	179	249	290	410	1,364
Height of couplers	11	9	21	44	62	147
Miscellaneous	342	92	97	330	229	1,090
	4,760	2,382	3,770	4,883	4,531	20,326

No. 21-B—STATEMENT of Cars Inspected and Defective shown Separately for Year Ending March 31, 1919, Nine Months Ending December 31, 1919, Twelve Months Ending December 31, 1920, Twelve Months Ending December 31, 1921, and Twelve Months Ending December 31, 1922.

——	1919	Nine months ending Dec. 31, 1919	Twelve months ending Dec. 31, 1920	1921	1922	Total
Cars inspected	77,261	45,871	66,108	76,789	82,128	348,157
Cars defective	4,232	2,142	3,135	4,352	4,057	17,918
Per cent defective	5·48	4·67	4·74	5·66	4·94	5·14

No. 22.—STATEMENT Showing Number of Engines Inspected by Railways, Together with the Defects, for Twelve Months Ending December 31, 1922.

Locomotive defects	C.P.R.	G.T.R.	M.C.R.	Wab.	C.N.R.	E.D. & B.C	P.M.R	A.C. & H.B.	Q.M. & S.	G.N-R.	K.V.R	West Pwr.	Maine Central	H. & S. W.	Q.C.R.	A.E.R.
1. Air compressors																
2. Arch tubes		8	1													
3. Ash pans or mechanism		3			13											
4. Axles		4														
5. Blow-off cock	1	5			1											
6. Boiler checks																
7. Boiler shell	1															
8. Brake equipment	4			1	4											
9. Cabs or cab windows					1											
10. Cab aprons or decks					1											
11. Cab cards																
12. Coupling or uncoupling devices	1	3			8					1						
13. Crossheads, guides, pistons or piston rods																
14. Crown bolts			1													
15. Cylinders, saddles or steam chests	1															
16. Cylinder cocks or rigging	1															
17. Domes or dome caps	1															
18. Draft gear	1	10														
19. Draw gear		1														
20. Driving boxes, shoes, wedges, pedestals and braces	1															
21. Fire box sheets	4		1													
22. Flues	1		2		1											
23. Frames, tail-pieces, or braces, locomotive	1			1							2					
24. Frames, tender	2	2														
25. Gauges or gauge fittings, air																
26. Gauges or gauge fittings, steam					1											
27. Gauge cocks	1															
28. Grate shakers	1															
29. Handholds	20	3	1		18	1	2									
30. Injectors inoperative					1											
31. Injectors and connections		1														
32. Inspection or test not made as required																
33. Lateral motion	12	9			1						1					
34. Lights, cab or classification		2														
35. Lights, headlights					1											
36. Lubricator or shields																
37. Mudrings	5	6													3	
38. Packing nuts																
39. Packing, piston rod and valve stem																
40. Pilots or pilot beams	7	1									1					
41. Plugs or studs		3			1											
42. Reversing gear																
43. Rods, main or side, crank pins or collars		1														
44. Safety valves																
45. Sanders																
46. Springs or spring rigging	1	7			1											
47. Squirt hose																

48. Staybolts	8			1											2		
49. Staybolts broken																	
50. Steam pipes		2		1													
51. Steam valves	1																
52. Steps	10	4		1	36										5		
53. Tanks or tank valves	8	4	1														
54. Telltale holes	2					1											
55. Throttle or throttle rigging		5	1	2													
56. Trucks, engine or trailing		1															
57. Trucks, tender	1	1		1							2						
58. Valve motion	1																
59. Washout plugs	1	2	1	1	1												
60. Water bar or combustion flues																	
61. Waterglass, fittings or shields	1	1															
62. Wheels	11	26		4	3	1					1						
63. Miscellaneous, signal appliances, badge plates, brake (hand)	7	4			4	2											
64. Fire protective appliances	128	36			70	2	3	1	1	8	5		2		2		
Number of defects	246	155	9	13	168	6	5	1	1	9	12		2		11		
Locomotives inspected	4,580	3,107	421	92	2,200	27	19	89	48	71	62	17	6	21	70	38	
Locomotives defective	227	139	7	12	156	6	5	1	1	9	10		2		6		
Percentage inspected, found defective	5	4	2	13	7	22	26	1	2	13	16		33		9		

No. 22.—STATEMENT Showing Number of Engines Inspected by Railways, together with the Defects, for Twelve Months Ending December 31, 1922—*Continued.*

Locomotive defects	Temis.	A.O. & W.	Q O R.	E. & N.	W J T.	T.H. & B.	F. & G.L.	B. & M.	D.A.R.	O. & N.Y.	N.B. R.. & Coal	W.P. & Y.	Total defects
1. Air compressors													
2. Arch tubes													9
3. Ash pans or mechanism													16
4. Axles													4
5. Blow-off cocks													7
6. Boiler checks													
7. Boiler shell													1
8. Brake equipment													9
9. Cabs or cab windows													1
10. Cab aprons or decks													1
11. Cab cards													
12. Coupling or uncoupling devices													15
13. Crossheads, guides, pistons or piston rods													
14. Crown bolts													1
15. Cylinders, saddles or steam chests													1
16. Cylinder cocks or rigging													1
17. Domes or dome caps													1
18. Draft gear													11
19. Draw gear													1
20. Driving boxes, shoes, wedges, pedestals and braces													5
21. Fire-box sheets													4
22. Flues													6
23. Frames, tail-pieces, or braces, locomotive							2						6
24. Frames, tender										2			1
25. Gauges or gauge fittings, air													1
26. Gauges or gauge fittings, steam													4
27. Gauge cocks													1
28. Grate shakers													1
29. Handholds							1			2			3
30. Injectors inoperative													2
31. Injectors and connections													1
32. Inspection or test not made as required													
33. Lateral motion													
34. Lights, cab or classification													
35. Lights, headlights													
36. Lubricator or shields													
37. Mudrings								2					15
38. Packing nuts													
39. Packing, piston rod and valve stem													
40. Pilots or pilot beams													24
41. Plugs or studs													
42. Reversing gear													1
43. Rods, main or side, crank pins or collars													
44. Safety valves													
45. Sanders													9
46. Springs or spring rigging													
47. Squirt hose													

48. Staybolts				2				1					12
49. Staybolts broken													
50. Steam pipes													3
51. Steam valves													1
52. Steps													58
53. Tanks or tank valves													13
54. Telltale holes													3
55. Throttle or throttle rigging													8
56. Trucks, engine or trailing													1
57. Trucks, tender													5
58. Valve motion													1
59. Washout plugs													6
60. Water bar or combustion flues													
61. Waterglass, fittings or shields													2
62. Wheels													46
63. Miscellaneous, signal appliances, badge plates, brake (hand)										2			19
64. Fire protective appliances						1					1		260
Number of defects				2		4		3		6	1		654
Locomotives inspected	42	8	24	30	4	112	4	7	19	8	5	13	11,144
Locomotives defective				2		4		2		2	1		592
Percentage inspected, found defective				7		4		29		5	20		5

APPENDIX "E"

REPORT OF THE CHIEF FIRE INSPECTOR OF THE BOARD, CLYDE LEAVITT, FOR THE YEAR ENDING DECEMBER 31, 1922

ORGANIZATION

The policy established in 1912 has been continued, under which the several Dominion and Provincial forest-protective organizations have co-operated with the Board, in the local handling of railway fire-inspection work. Under this arrangement, 97 members of such organizations throughout Canada have been authorized to act as local officers of the Fire Inspection Department. On the whole, this form of organization has worked to the great advantage of all concerned.

In Ontario, increased efficiency in local inspection has resulted from the adoption, by the Ontario Forestry Branch, of the District system of organization in the eastern portion of the province Three forest districts were established, with headquarters at Pembroke, Parry Sound and Tweed, under experienced foresters. A notable improvement in our local inspection resulted from this improved form of organization, which it is anticipated will be further extended during 1923.

The form of organization in the other provinces remained substantially as in previous years.

GENERAL ORDER NO. 362

The outstanding feature of the year was the issuance of General Order No. 362, dated April 19, 1922. This order comprises a revision of General Order No. 107, which it supersedes. Notable improvements in the new order are in connection with: (*a*) Greatly improved requirements relative to fire-protective appliances on locomotives; (*b*) Modified regulation of the use of non-coking coals as locomotive fuel, during the fire season; (*c*) Provision for reducing the occurrence of fires caused by burning smoking materials thrown from trains.

RAILWAY FIRE PATROLS

In general, the requirements for special fire patrol have been well observed by the railways. As noted last year, there is an increasing tendency toward the handling of special fire patrol by selected members of the regular section forces With comparatively few exceptions, fires have been discovered promptly and adequate steps taken to extinguish same.

LOCOMOTIVE FUEL

Oil fuel continued in exclusive use in British Columbia on the Canadian National Railway between Prince George and Prince Rupert, 468 miles; Canadian Pacific Railway, between Field and Revelstoke, 126 miles; and on the Esquimault and Nanaimo Railway, 199 miles; total 793 miles. On the Canadian Pacific Railway, between Revelstoke and Kamloops, 129 miles, oil fuel was used only on locomotives in passenger service.

Early in the spring a serious situation arose on Canadian National lines in the West, resulting from the strike of union coal miners in northern Alberta. Regulation 7, General Order No. 107, prohibited the use of lignite coal as locomotive fuel, lignite coal being defined as intermediate between peat and

bituminous, with a carbon-hydrogen ratio of 11·2 or less, based on analysis of air-dried coal. This regulation, enacted in 1913, later became inadequate to cover the situation, because of the development in northern Alberta of certain coal mines whose product had a carbon-hydrogen ratio greater than 11·2, but the use of which as locomotive fuel, with standard front-end fire-protective appliances, resulted in the setting of an excessive number of fires. The coals in question were characterized by a light body, high moisture content and the absence of coking properties. Technically, the use of these coals as locomotive fuel was not prohibited by General Order No. 107, although, in practice, such use was, as a matter of policy, closely restricted by the railways because of their demonstrated sparking proclivities.

In view of this changed situation, when General Order No. 107 was being revised, for issuance as General Order No. 362 (dated April 19, 1922), a new regulation was drafted, as follows:—

> "8. That, unless otherwise ordered, no such railway company, between April 1, and November 1, burn as fuel on its locomotives, steam shovels, ditching machines, and pile drivers, any coal not possessing good coking properties, the use of which with standard front-end fire-protective appliances prescribed by clause 2, results in the emission of sparks from the stack to an extent deemed by the Board to be dangerous to the public interest, unless such equipment is provided with special fire-protective appliances approved by the Board. Whether any particular coal possesses good coking properties shall be determined by certificate from the Mines Branch, Department of Mines, Ottawa."

This regulation recognizes the obvious fact that front-end fire-protective appliances designed for use with bituminous coal having good coking properties are not necessarily adapted to use with light bodied, non-coking sub-bituminous coal, of the character produced by certain mines in northern Alberta which are otherwise well adapted for use as locomotive fuel.

The mines in question are situated on the Canadian National Railway, which comprises their natural market, so far as locomotive fuel is concerned.

Under normal conditions, the Canadian National would be able to secure from other mines in its territory adequate supplies of coal having good or fairly good coking properties and decidedly less sparking propensities.

However, due to the strike of union coal miners which prevailed in northern Alberta early in the year, the output from such mines was greatly reduced and finally practically stopped, so that the Canadian National was finally faced, in the early spring, with the alternative of either greatly reducing train service, due to shortage of fuel, or of using on some of its lines, non-coking and poorly coking grades of coal, partly from mines whose production had been greatly decreased but not entirely stopped, and partly from one of the mines operated as a steamshovel proposition and therefore not affected by the strike of union miners.

During May an epidemic of fires broke out on some of the Canadian National lines in northern Alberta where non-coking grades of coal were in use. The situation was particularly aggravated on the Alberta Coal Branch, comprising the Lovett, Mountain Park and Luscar Subdivisions. Most of these fires were small, but some escaped and covered considerable areas. The matter was taken up with the management and assurance was received by the Board that only coking grades of coal would be used in forest sections.

Formal representations were made by the company, setting forth the situation resulting from the strike, and making application for temporary relief. The

outcome was the issuance by the Board of Order No. 32657, dated July 24, 1922, suspending until August 15, the provisions of regulation 8, General Order No. 362, as to portions of Canadian National Western Lines operating through non-forested territory. The use of non-coking coal in prairie sections was considered less hazardous than in forest sections, because of the construction by the railway of fire-guards in the former, coupled with a generally less inflammable condition, and the fact that any fires that might occur would be more readily controlled than in forested areas.

The strike, however, continued, and it was necessary to continue the temporary suspension granted by Order No. 32657. This was done by successive orders, effective until the close of the fire season, November 1.

In the meantime, investigations and experiments were carried forward by the Canadian National with a view to developing and demonstrating a spark-arresting device that should work satisfactorily with non-coking grades or sub-bituminous coal. These experiments are still under way, not having reached more than a partially successful conclusion at the end of the year.

The excessive occurrence of spring fires along the Canadian National in forested sections in northern Alberta and eastern British Columbia is discussed below. It may be added that, while statistics of railway fires in prairie sections are not published in this report, our information, based on reports available, is to the effect that there was a very substantial increase in the occurrence of railway fires along the Canadian National in the prairie or non-forested sections of the Prairie Provinces. This should presumably be attributed, at least very largely, to the partial use in such territory, during the fire season, of non-coking grades of coal, without special spark-arresting devices to overcome this additional hazard.

Barring the recurrence of protracted strikes, the situation in these respects should be greatly improved during the coming year.

FIRE STATISTICS

The fire season of 1922 in British Columbia and northern Alberta was unusually serious. Normal conditions prevailed in Saskatchewan and Manitoba, except for a short period during September. Eastern Ontario and Western Quebec experienced an exceedingly dry spring, with extreme drought again during September and October. Conditions in the Maritime Provinces were normal. Taking into consideration the abnormal climatic conditions prevailing in these portions of the country, the number of fires attributed to the operation of railways, while large, is not out of proportion to the hazard.

Except in one case, fires set by the railways have been early detected and quickly extinguished. The one fire excepted burned over 29 per cent of the total area burned and did 34 per cent of the total damage, charged to railway causes. This fire, although brought under control, was not entirely extinguished, and as a result a second outbreak occurred during a period of high wind, with disastrous results. Had a tank car pumping unit or a portable fire-fighting pumping unit been quickly available, the fire could have been completely extinguished and heavy damage to valuable timber prevented. It is expected that the territory in question will be so protected during the ensuing year.

Taking the situation as a whole, it may fairly be said that the actual loss occasioned by railway fires, while high in the aggregate, is nevertheless low in comparison with forest fire losses throughout the country, due to other agencies. The railways are showing increased efficiency in the handling of their forest fire problem, although obviously there is still ample room for improvement.

The submission of fire reports by railway companies under the Board's Circular No. 133 is limited to lines or portions of lines broadly classified as running through forest sections. The total of lines so classified is 11,285 miles, approximately one-third of the total railway mileage under the Board's jurisdiction.

Of the total number of fires attributed to locomotive sparks in forested territory throughout the Dominion, 52·2 per cent occurred along 728 miles of the Canadian National Railway lines west of Edmonton in the provinces of Alberta and eastern British Columbia. Of all locomotive fires, 338, or 33·8 per cent, occurred on 92·7 miles of lines covering the Lovett, Mountain Park and Luscar Subdivisions, south of Bickerdike, known as the Alberta Coal Branch lines. The balance of 478 fires set by locomotive sparks were spread over 10,557 miles of lines of all railways running through forest sections. The high percentage of locomotive fires set by Canadian National in northern Alberta and eastern British Columbia is attributed chiefly to the temporary use of subbituminous coal as locomotive fuel, as above discussed.

It should be noted that of the 338 fires attributed to locomotives on the Alberta Coal Branch lines during the season, 174, or 51 per cent, occurred prior to June 1, and 240, or 71 per cent, occurred prior to June 8, by or before which date the use of non-coking coal had been discontinued on these lines in favour of the grades having good or fairly good coking properties. While the great majority of these fires were of small size and caused no damage, the very fact of their occurrence constitutes a danger signal of the most urgent character. The damage must have been very much greater had it not been for the intensive patrol maintained by the railway under our fire patrol requirements, the close inspection maintained by our local organization, and the construction of several miles of fire guards at most dangerous points adjacent to the right of way, at the expense of the Dominion Forestry Branch, which is vitally concerned because of the forest reserve which is penetrated by the railway lines in question.

The troubles on the Coal Branch lines were further aggravated by the use of certain light locomotives in heavy service, necessitating a heavy exhaust, with resulting excessive sparking. The railway company proposes to superheat these light locomotives, with a view to increasing their capacity, thus obviating the excessive throwing of dangerous sparks.

A grand total of 1,598 fires from all causes were reported as having originated within 300 feet of railway lines in forested territory along railways subject to the jurisdiction of the Board, as follows:—

Province	Number of fires	Per cent of total
British Columbia	551	35
Prairie Provinces	560	35
Ontario	272	17
Quebec	166	10
New Brunswick	18	1
Nova Scotia	31	2
Totals	1,598	100

Of the grand total of fires, 759, or 47·5 per cent, are class A fires, which burned over less than one-fourth acre each, doing no damage; while 839, or 52·5 per cent, are class B (larger) fires, which burned over 118,012 acres and destroyed forest growth and forest products valued at $187,046, and other property valued at $35,547, a total of $222,593.

Of the grand total, 1,205 fires, or 75·4 per cent, were definitely attributed to railway agencies; 120 fires, or 7·5 per cent, to known causes other than railways; and 273 fires, or 17·1 per cent, to unknown causes.

Of the total area of 118,012 acres burned over, 89·9 per cent is chargeable to railway causes, 4·5 per cent to known causes other than railways, and 5·6 per cent to unknown causes.

Of the grand total area of 118,012 acres burned over, 44.1 per cent is classified as lands carrying young forest growth; 19·1 per cent as lands carrying stands of commercial timber; 33·0 per cent as cut-over or previously burned-over lands; and 3·8 per cent as non-forested and grass lands.

Of the total of $222,593 damage, the railways are definitely charged with 83·9 per cent, 3·8 per cent of the damage is due to known causes other than railways, and 12·3 per cent to unknown causes.

Of the 1,205 fires which the railways are definitely charged with having caused, 1,000, or 62·5 per cent of the grand total, are attributed to sparks from locomotives, and 205 fires, or 12·9 per cent of the grand total, to railway employees.

Summary of Reports on Fires in Forest Sections originating within 300 feet of track on Railway Lines subject to the jurisdiction of the Board of Railway Commissioners for Canada, Season of 1922.

	Canadian Pacific (Western Lines) (a)	Canadian Pacific (Eastern Lines) (b)	Canadian National (Western Lines) (c)	Canadian National (Eastern Lines) (c) (d)	Grand Trunk	Great Northern	Edmonton Dunvegan and British Columbia	Algoma Central and Hudson Bay	Miscellaneous (e)	Totals
A.—Railway Fires										
1. *Number by Causes—*										
(a) Locomotives, Class A fires	104	19	353	43	9	12	13	1	3	557
Locomotives, Class B fires	101	35	240	22	7	1	29	.....	8	443
(b) Employees, Class A fires	12	5	5	22	.....	.....	.....	2	.....	46
Employees, Class B fires	19	35	34	43	8	5	3	12	.....	159
(c) Total of Class A fires	116	24	358	65	9	12	13	3	3	603
Total of Class B fires	120	70	274	65	15	6	32	12	8	602
Total of all railway fires	236	94	632	130	24	18	45	15	11	1,205
2. *Areas burned (acres)*										
(a) Young forest growth	2,523	972	20,925	25,166	1,166	.....	128	5	.....	50,885
(b) Timber land	2,512	132	4,997	11,497	1,627	.....	6	46	103	20,920
(c) Slashing or old burn	1,077	304	12,218	1,557	15,028	102	.....	32	602	30,920
(d) Other classes of land	397	1,028	1,388	154	126	28	209	18	1	3,349
(e) Total	6,509	2,436	39,528	38,374	17,947	130	343	101	706	106,074
3. *Value of property destroyed—*										
(a) Young forest growth	$ 2,067	$ 3,166	$ 55,286	$ 30,761	$ 2,356	$	$ 198	$ 1	$	$ 93,835
(b) Standing timber	4,364	1,700	14,014	33,816	10,874	.....	43	52	1,315	66,178
(c) Forest products	500	71	55	12,195	.....	.....	.....	.....	.....	12,821
(d) Other property	2,538	1,965	9,066	313	35	.....	.....	.....	27	13,944
(e) Total	$ 9,469	$ 6,902	$ 78,421	$ 77,085	$ 13,265	$	$ 241	$ 53	$ 1,342	$ 186,778
B.—Known Causes other than Railway Fires										
1. *Number by causes—*										
(a) Campers and travellers, Class A fires	6	9	5	7	1	3	.....	.....	.....	31
Campers and travellers, Class B fires	6	1	6	3	.....	4	.....	1	.....	21
(b) Settlers, Class A fires	.....	4	1	1	.....	.....	.....	.....	.....	6
Settlers, Class B fires	7	8	5	5	1	.....	5	2	.....	33
(c) Other known causes, Class A fires	2	13	.....	.....	1	.....	.....	.....	.....	16
Other known causes, Class B fires	2	1	4	3	.....	3	.....	.....	.....	13
(d) Total of Class A fires	8	26	6	8	2	3	.....	.....	.....	53
Total of Class B fires	15	10	15	11	1	7	5	3	.....	67
Total of all known causes	23	36	21	19	3	10	5	3	.....	120

SUMMARY of Reports on Fires in Forest Sections originating within 300 feet of track on Railway Lines subject to the jurisdiction of the Board of Railway Commissioners for Canada, Season of 1922.—*Concluded.*

	Canadian Pacific (Western Lines) (a)	Canadian Pacific Eastern) Lines) (b)	Canadian National (Western Lines) (c)	Canadian National (Eastern Lines) (c) (d)	Grand Trunk	Great Northern	Edmonton Dunvegan and British Columbia	Algoma Central and Hudson Bay	Miscellaneous (e)	Totals
2. *Areas burned (acres)*—										w
(*a*) Young forest growth	18	26	118	626	.....	.....	.....	.....	.....	788
(*b*) Timber land	22	.....	860	40	.....	.....	.....	.....	.....	922
(*c*) Slashing or old burn	155	25	1,542	22	.....	1,501	.....	251	.....	3,496
(*d*) Other classes of land	5	9	5	7	1	.....	162	.....	.....	189
(*e*) Total	200	60	2,525	695	1	1,501	162	251	.....	5,395
3. *Value of property destroyed*—										
(*a*) Young forest growth	$ 15	$ 26	$ 102	$ 380	$	$	$	$	$	$ 523
(*b*) Standing timber	60	.....	6,350	65	.....	.....	.....	.....	.....	6,475
(*c*) Forest products	.....	.....	.....	101	.....	.....	.....	.....	.....	101
(*d*) Other property	160	26	860	127	.....	150	.....	.....	.....	1,323
(*e*) Total	$ 235	$ 52	$ 7,312	$ 673	.....	$ 150	$	$	$	$ 8,422
C.—FIRES OF UNKNOWN ORIGIN										
1. *Number*—										
(*a*) Total of Class A fires	41	14	10	26	3	.....	1	4	4	103
(*b*) Total of Class B fires	47	34	30	27	2	7	15	4	4	170
(*c*) Total of all unknown fires	88	48	40	53	5	7	16	8	8	273
2. *Areas burned (acres)*—										
(*a*) Young forest growth	6	126	102	53	5	.....	49	.....	5	346
(*b*) Timber land	10	28	325	301	.....	.....	10	2	.....	676
(*c*) Slashing or old burn	291	473	2,973	265	.....	500	.....	4	2	4,508
(*d*) Other classes of land	25	110	161	351	.....	.....	356	2	8	1,013
(*e*) Total	332	737	3,561	970	5	500	415	8	15	6,543
3. *Value of property destroyed*—										
(*a*) Young forest growth	$ 1	$ 114	$ 561	$ 44	$ 8	.....	$ 136	$	$ 5	$ 869
(*b*) Standing timber	122	162	323	424	.....	.....	72	12	.....	1,115

(c) Forest products	135	4,255	720	5	.....	14	.....	.....	.....	5,129
(d) Other property	1,830	7,900	707	34	.....	300	.....	9,500	9	20,280
(e) Total	$ 2,088	$ 12,431	$ 2,311	$ 507	$ 8	$ 314	$ 208	$ 9,512	$ 14	$ 27,393
D.—Grand Totals for all Causes										
1. *Number*—										
(a) Total of all Class A fires	165	64	374	99	14	15	14	7	7	759
(b) Total of all Class B fires	182	114	319	103	18	20	52	19	12	839
(c) Total of all fires reported	347	178	693	202	32	35	66	26	19	1,598
2. *Areas burned (acres)*—										
(a) Young forest growth	2,547	1,124	21,145	25,845	1,171	.....	177	5	5	52,019
(b) Timber land	2,544	160	6,182	11,838	1,627	.....	16	48	103	22,518
(c) Slashing or old burn	1,523	802	16,733	1,844	15,028	2,103	.....	287	604	38,924
(d) Other classes of land	427	1,147	1,554	512	127	28	727	20	9	4,551
(e) Total	7,041	3,233	45,614	40,039	17,953	2,131	920	360	721	118,012
3. *Value of property destroyed*—										
(a) Young Forest growth	$ 2,083	$ 3,306	$ 55,949	$ 31,185	$ 2,364	$	$ 334	$ 1	$ 5	$ 95,227
(b) Standing timber	4,546	1,862	20,687	34,305	10,874	.....	115	64	1,315	73,768
(c) Forest products	635	4,326	775	12,301	.....	14	.....	.....	.....	18,051
(d) Other property	4,528	9,891	10,633	474	35	450	.....	9,500	36	35,547
(e) Total	$ 11,792	$ 19,385	$ 88,044	$ 78,265	$ 13,273	$ 464	$ 449	$ 9,565	$ 1,356	$ 222,593

(a) Includes Esquimalt and Nanaimo and Kettle Valley Railways.
(b) Includes Dominion Atlantic, Fredericton and Grand Lake Coal and Railway, New Brunswick Coal and Railway and Quebec Central Railway.
(c) Includes Canadian National Railway lines subject to the Board's Jurisdiction. Excludes Canadian Government Railways (Transcontinental, Intercolonial and Hudson Bay Railways.)
(d) Includes Halifax and South Western Railway.
(e) Includes following lines: Algoma Eastern; Maritime Coal Railway and Power Company; Maine Central; Temiscouata; Western Power Company of Canada; White Pass and Yukon Route.

Note.—No fires were reported during 1922 as originating within 300 feet of track along the following lines: Atlantic, Quebec & Western; Boston and Maine; Cumberland Railway and Coal Company; Ottawa and New York; Quebec, Montreal and Southern, Quebec Oriental.

Class A fires are those which cover an area of less than one-fourth acre.
Class B fires are those which cover an area of one-fourth acre or more.

FIRE-PROTECTIVE APPLIANCES ON LOCOMOTIVES

During the fire season of 1922, officers of the Fire Inspection Department inspected fire-protective appliances on 2,556 locomotives operating through forested territory. Of this total, the fire-protective appliances on 119 locomotives, or 4·7 per cent, were found to be in a defective condition. This comprises an excellent showing, although obviously there is still room for substantial improvement.

This phase of the work is primarily under the jurisdiction of the Board's Operating Department, and our activities in this connection are in co-operation with that Department.

Experience shows that the Master Mechanics front-end is difficult to maintain in good order from the viewpoint of fire prevention; also that even when the fire-protective appliances are maintained in good order, a great many fires may still be set by sparks from the stack, during periods of drought. One of the most crying needs, so far as fire protection is concerned, is for the demonstration and general adoption of some device that will effectually do away with the emission of dangerous sparks from the stacks of locomotives. This we do not yet have. The need is particularly urgent for the development of a device that will give satisfactory results with light-bodied non-coking coals such as are found in certain portions of northern Alberta.

INSPECTIONS of Locomotive Fire-Protective Appliances, 1922. By Fire Inspection Department, B.R.C.

Railway	Province	Number Inspected	Number Defective	Per cent Defective
C.P.R. (including N.B.C. & Ry. and F. & G.L.C. and Ry)	New Brunswick	65	9	13·8
C.P.R. (including Quebec Central)	Quebec	181	5	2·7
C.P.R.	Ontario	815	43	5·3
C.P.R.	B.C.	204	18	8·8
Totals		1,265	75	5·9
C.N.R.	Quebec	70	2	2·9
"	Ontario	418	12	2·9
"	Man.-Sask.-Alta	154	6	3·8
"	Br. Columbia	158	3	1·9
Totals		800	23	2·9
G.T.R.	Quebec	27	1	3·7
"	Ontario	220	6	2·7
Totals		247	7	2·8
A.Q. & W. & Q.O.	Quebec	26	0	0·0
A.C. & H.B.	Ontario	45	1	2·2
A.E.	Ontario	19	0	0·0
G.N.R.	Br. Columbia	19	3	16·0
K.V.R.	Br. Columbia	35	4	11·4
E.D. & B.C.	Alberta	14	2	14·3
Temiscouata	Quebec	18	0	0·0
Maine Central	Quebec	4	1	25·0
Central Vermont	Quebec	4	1	25·0
Q.M. & S.	Quebec	25	1	4·0
B. & M.	Quebec	5	0	0·0
W.C.P. Co.	Br. Columbia	10	1	10·0
W.P. & Y. Route	Br. Columbia & Yukon	20	0	0·0
Totals all railways		2,556	119	4·7

FIRE GUARD STATISTICS

The statistical fire-guard report for 1922 shows an increase of 70·85 track miles over 1921, making a total of 14,855·06 track miles of railway lines in the Prairie Provinces subject to the fire-guard requirements, equivalent to 29,710·12 fire-guard miles, since fire-guards are required to be maintained on both sides of the track.

The report indicates that 9,896·78 miles of fire-guards were constructed or maintained during the past year, and 19,813·34 miles were, for various reasons. not constructed. Of this total, there were exempted by this Department 9,246·58 miles; owner of land refused to allow construction, 73·68 miles; land already ploughed, 3,039·93 miles; grain stubble and cultivated hay lands not fire-guarded by owner, 5,877·17 miles. Thus, as to a total of 18,237·36 miles of fire-guards not constructed, the reasons assigned by the companies were considered acceptable, leaving 1,575·98 miles unaccounted for, but at least a considerable portion of which presumably should have been fire-guarded.

As to 15,530·0 fire-guard miles on Canadian National lines, the company submitted revised exemption charts, which were inspected and passed upon by this Department during the past year.

There is an annual reduction in the mileage of fire-guards constructed, by reason of lands being placed under cultivation. Thus, the annual burden of cost of construction and maintenance of fire-guards on the railways is gradually becoming less from year to year.

SUMMARY of Fire-Guard Construction and Maintenance by Railways in the Provinces of Manitoba, Saskatchewan and Alberta, 1922

—	Edmonton, Dunvegan, and British Columbia, and Central Canada	Great Northern	Canadian National	Canadian Pacific	Totals
Length in track miles	478·10	162·38	7,765·0	6,449·58	14,855·06
Length in fire-guard miles (1)	956·20	324·76	15,530·0	12,899·16	29,710·12
Fire-guards constructed (shown in fire-guard miles)—					
Grain stubble lands (Fireguarded by owner	35·00	200·50	1,490·46	2,416·32	4,142·28
Cultivated hay lands (Fireguarded by owner	4·50	40·00	276·90	19·25	340·65
Fenced grazing lands	9·70	49·00	1,031·12	1,632·07	2,721·89
Wild lands	2·50	1·50	900·71	1,787·25	2,691·96
Total miles of fire-guards constructed	51·70	291·00	3,699·19	5,854·89	9,896·78
Fire-guards not constructed (shown in fire-guard miles)—					
Exemptions (2)	825·90	30·00	5,463·83	2,926·85	9,246·58
Owner refuses to allow construction (3)	.....	.....	8·00	65·68	73·68
Unnecessary; land already plowed (4)	6·00	.....	1,628·81	1,405·12	3,039·93
Grain stubble lands (Not fire-guarded by owner (5)	56·50	.....	3,504·17	1,811·03	5,371·70
Cultivated hay lands (Not fire-guarded by owner (5)	7·40	.....	421·79	76·28	505·47
Miscellaneous other reasons	8·70	3·76	804·21	759·31	1,575·98
Total miles of fire-guards not constructed	904·50	33·76	11,830·81	7,044·27	19,813·34

1. Fire-guard mileage is double the track mileage, since the construction of fire-guards is required on both sides of the track.

2. Company exempted from fire-guard construction, as to portions of line where showing made that such construction is unnecessary or impracticable.

3. Employees of railway company refused permission, by owner, to enter upon lands for purpose of constructing fire-guards.

4. Fire-guarding unnecessary, because fields already plowed.

5. Fire-guarding in grain stubble and in cultivated hay lands required only where the land owner or occupant will undertake to plow guard at the reasonable price specified by the Board, to be paid by the railway company.

APPENDIX "F"

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA

RECORD ROOM

LIST of cases appealed to the Supreme Court of Canada, from February 1, 1904, to December 31, 1922

File No.	Subject	Decision
643	Montreal Terminal Railway *vs.* Montreal Street Railway, Pius Ave., upon question of jurisdiction	Allowed
1455	James Bay Railway *vs.* G.T.R., undercrossing at a point near Beaverton, Ont., Lot 13, Con. 7, Tp. of Thorah	Dismissed
1492	James Bay Railway *vs.* G.T.R., crossing Belt Line Spur. Question of law.	Dismissed
383	Ottawa Electric Railway and City of Ottawa *vs.* Canada Atlantic Railway, *re* Bank Street Subway, Ottawa. Question of law	Dismissed
1621	Toronto Railway Co., against Order 7813, July 3rd, 1909, *re* high level bridge over Don Improvement and tracks of G.T.R. and C.P.R., Toronto. Question of jurisdiction	Dismissed
588	*Re* Toronto Union Station. A. R. Williams expropriation. Question of jurisdiction	Dismissed
C. 1680	Essex Terminal Railway and W. E. & L.S.R.R. Railway crossing in the Tp. of Sandwich, Ont. Question of law	Dismissed
C. 1309	Robinson *vs.* G.T.R., two-cent rate. Question of law	Dismissed
689	C.P.R. *vs.* G.T.R., *re* branch line at London, Ont. Question of jurisdiction.	Dismissed
1497	T. D. Robinson *vs.* C.N.R., spur at Winnipeg. Question of jurisdiction	Dismissed
9527	Montreal Street Railway, *re* rates, Mount Royal Ward. Question of jurisdiction	Allowed
C. 1419	Ontario Department of Agriculture *vs.* G.T.R., *re* station at Vineland, Ont. Jurisdiction	Dismissed
C. 3322	*Re* Toronto Viaduct—Appeal of C.P.R., on question of law	Dismissed
C. 4897	*Re* fencing and cattleguards, Order 7473. Appeal of C.N.R. upon question of jurisdiction	Allowed
C. 4492	City of Toronto *vs.* G.T.R. and C.P.R., *re* commutation rates. Question of	
C. 3378	law	Withdrawn
C. 2545	City of Ottawa and County of Carleton *re* Richmond Road Viaduct. Question of jurisdiction	Dismissed
13079	G.T.R. and C.N.O.R., *re* spur in Tp. of Scarboro, Ont. Question of jurisdiction	Dismissed
C. 3269	G.T.R. *vs.* British American Oil Cos., *re* oil rates. Question of law	Dismissed
1519	G.T.P.R. *vs.* City of Fort William, Ont., *re* location. Question of jurisdiction	Dismissed
11965	N. St. C. & T. Railway *vs.* Davy. Question of jurisdiction	Allowed
15580	Clover Bar Coal Co., and Wm. Humberstone *vs.* G.T.P. and the Clover Bar Sand and Gravel Co. Question of jurisdiction	Dismissed
12682	Regina Rates Case. Question of law	Dismissed
17963	G.T.P.R. *vs.* A. E. Purcell of Saskatoon, Sask. Question of jurisdiction	Dismissed
C. 3269	C.P.R. vs. British American Oil Companies. Question of jurisdiction	Dismissed
15530	G.T.R. and C.P.R. *vs.* Canadian Oil Companies. Question of jurisdiction	Dismissed
15530·1		
20062	B.C. Electric Railway, V.V. & E. Railway *vs.* City of Vancouver, B.C.	
27095	Question of jurisdiction	Dismissed
1487	E. B. Chambers and W. B. G. Phair *vs.* C.P.R. Question of jurisdiction	Allowed
18578	C.N.R. *vs.* Wm. A. Taylor. Question of jurisdiction	Dismissed
19435	G.T.R. *vs.* City of Edmonton. Question of law	Dismissed
14329·9	Montreal Tramways and M.P. & I. Railway *vs.* Lachine, Jacques Cartier and Maisonneuve Railway. Jurisdiction	Allowed
23009	City of Hamilton *vs.* T.H. & B. Railway. Question of jurisdiction	Allowed
21428	G.T.R. *vs.* Hepworth Silica Pressed Brick Co. Question of law	Dismissed
12021·70	Toronto Ry. Co., and City of Toronto vs. C.P.R. Question of law and	
9437·153	jurisdiction	Dismissed
C. 3935	City of Edmonton *vs.* E.D. & B.C. Railway. Question of law	Dismissed
16171	Ingersoll Tel. Co., and others vs. Bell Tel. Co. Question of law	Dismissed
27524	G.T.R. *vs.* Bourassa of Laprairie, Que. Question of law and jurisdiction	Withdrawn
13622	G.N.W. Telegraph Co., submits for opinion of Court a question of law involved in matter of General Order No. 162	Abandoned
27840	Government of Manitoba and J. H. Ashdown Hardware Co., *re* 15 per cent increase in freight rates. Question of jurisdiction	Abandoned

SESSIONAL PAPER No. 33

LIST of cases appealed to the Supreme Court of Canada, from February 1, 1904, to December 31, 1922—*Concluded.*

File No.	Subject	Decision
26981	C.P.R. *vs.* Department of Public Works for Ontario, *re* crossing in Township of Kirkpatrick. Question of law	Withdrawn
11118	Esquimalt and Nanaimo Railway *re* right of City of Victoria to have access over the bridge at Victoria Harbour. Question of jurisdiction	Abandoned
28439	Municipality of Burnaby, B.C., *vs.* British Columbia Electric Railway, *re* commutation rates. Question of jurisdiction	Abandoned
28950	City of Toronto *vs.* Toronto Terminal Railway *re* pressure pipes under Bay, Scott and Yonge streets, Toronto. Question of law	Dismissed
C. 3378	Application of Mr. Wegenast for a stated case in *re* Brampton commutation rates. Question of law	Dismissed
C. 2987	Ottawa Electric Railway, against Order of Board disallowing proposed increase in passenger rates. Question of jurisdiction	Allowed
21404·6	Board submits stated case for the opinion of the Court on question of jurisdiction in the matter of British Columbia Electric Railway Company's application for increased rates	Abandoned
28140 Pt. 2	Appeal of the Canadian Pacific Railway Company upon a question of law arising out of the application of the Department of Lands, Forests and Mines, Province of Ontario, for an Order directing the C.P.R. to provide and construct an overhead crossing at its own expense over its right of way between lots 6 and 7, Con. 1, Township of Eton, Ont. April 1, 1922. (Appeal allowed with costs. Question answered in the negative.)	

SUMMARY

Dismissed	28
Allowed	10
Abandoned	5
Withdrawn	3
Total	46

List of Appeals to the Governor in Council, February 1, 1904, to December 31, 1922.

File No.	Subject	Decision
399	Bay of Quinte Railway. Crossing C.P.R. at Tweed, Ont.	Allowed
1455	James Bay Railway *vs.* G.T.R. Crossing near Beaverton	Dismissed
1781	G.T.R. *vs.* City of Chatham, Ont. Street crossings	Dismissed
12992	Maniwaki Branch of C.P.R. Train service from Ottawa	Referred back
2030	*Re* tariffs of certain Yukon railways	Dismissed
17716	C.P.R.—Longue Pointe Spur through Town of Maisonneuve, Que	Dismissed
18787	South Hazelton Townsite *vs.* G.T.P.R	Referred back
3452·30	J. Y. Rochester *re* Cameron Bay *vs.* G.T.P.R	Dismissed
12912	Park Avenue Subway, Town of St. Louis, Que., *vs.* C.P.R	Dismissed
17040	Lambton to Weston spur and C.P.R	Abandoned
C. 3322	Toronto Viaduct Case	Dismissed
12021·70	City of Toronto *re* North Toronto Grade Separation	Dismissed
16177	C.P.R. *vs.* Mountain Lumber Manufacturers' Association *re* lumber rates	Withdrawn
19024	Charles Miller of Toronto *vs.* G.T.P.R. *re* station at Prince George, B.C.	Dismissed
17716·10	C.P.R. *vs.* Town of Maisonneuve, Que. Highways Crossings	Dismissed
22681·25	City of Montreal *vs.* C.N.R. siding across Stadacona and Marlboro streets, Montreal, Que	Abandoned
21418	City of Prince George, B.C., *re* location of G.T.P.R. station between Oak and Ash streets	Dismissed
21660	C.N.C.R. *vs.* Township of Loughboro, Ont	Dismissed
26169	C.P.R. and C.N.R. Cos., *re* interswitching at Eastern Public Cattle Market, Montreal	Abandoned
17040	C.P.R. *re* Lambton to Weston Spur. (Second Appeal)	Referred back
27693	City of Hamilton *vs.* G.T.R. *re* passenger service on Northern and N.W. Branch, between Hamilton and Burlington Beach and Town of Burlington, Ont	Abandoned
27840	Winnipeg Board of Trade *re* 15 per cent increase in freight rates	Dismissed
28439·3	Town of St. Lambert, Que., *re* increase in rates on the Montreal and Southern Counties Railway	Dismissed
28230	City of Hamilton, Ont., *re* Kinnear Yard, Hamilton	Referred back
29040·2	National Dairy Council of Canada on behalf of Canadian Association of Ice Cream Manufacturers, *re* classification of ice cream	Referred back
C. 955	Proprietors' League of Montreal, *re* increase in Bell Telephone rates	Dismissed
30434	City of Windsor, Ont., for Order rescinding Order of Board No. 30028 authorizing C.P.R. to construct tracks of proposed freight shed at grade across unopened portion of Carom Avenue, Windsor	Dismissed
29996	City of Toronto against General Order No. 308 authorizing a general increase in freight rates	Referred back
C. 955	City of Toronto against Judgment of Board dated April 13, 1921, providing for increase in Bell Telephone rates	Abandoned
23092·2	C.N.Q. Ry. Co., against Order No. 31312 *re* crossing Pointe aux Trembles Terminal Ry. at Pointe aux Trembles, Que	Pending
30380 P. 2	Appeal of the Corporation of the City of Toronto against the Ruling of the Board (General Order No. 327) with respect to express rates	Dismissed
30380·13	Appeal of the National Dairy Council of Canada from the decision of the Board and for an Order for the cancellation of the 20 per cent increase in cream rates which was allowed temporarily to express companies on their application of July, 1920	Referred back
17112·27	Appeal of the Dominion Millers Association from the Judgment of the Board, dated March 6, 1922, in the matter of flour arbitraries over wheat for export	Dismissed
29040·2	Appeal of the National Dairy Council of Canada on behalf of Canadian Ice Cream Manufacturers from Board's Order No. 28883, respecting express classification of ice cream	Pending

SUMMARY

Dismissed	18
Referred back	7
Abandoned	5
Withdrawn	1
Allowed	1
Pending	2
Total	34

APPENDIX "G"

LIST OF GENERAL ORDERS AND CIRCULARS OF THE BOARD FOR THE YEAR ENDING DECEMBER 31, 1922

GENERAL ORDER No. 353

In the matter of the General Order of the Board No. 271, dated September 10, 1919, as amended by General Order No. 348, dated November 10, 1921, with respect to the Canadian Freight Classification and the Express Classification for Canada, and Sections 322 and 360 of the Railway Act, 1919.

File No. 25639.

Upon reading the submissions filed.—

The Board Orders: That the said General Order No. 271, dated September 10, 1919, as amended by General Order No. 348, dated November 10, 1921, be, and it is hereby, amended by striking out the words, "The Ontario Grocers' Guild", in the ninth line of paragraph 5 of the order, and substituting therefor the words, "Canadian Wholesale Grocers' Association"; and by adding the words, "United Grain Growers' Limited" and "Fruit Commissioners' Office, Department of Agriculture".

OTTAWA, January 3, 1922.

F. B. CARVELL,
Chief Commissioner.

GENERAL ORDER No. 354

In the matter of the complaint of the Winnipeg Board of Trade, the Western Canada Flour Mills, and others, against the increase in the stop-off charge on grain for storage and milling in transit; and the application of the Dominion Millers' Association for an Order directing that the Grand Trunk Railway Company discontinue excessive stop-over charge of 2 cents per 100 pounds on grain products shipped milling-in-transit for domestic consumption.

File No. 26575

And in the matter of the application of the Dominion Millers' Association and the Montreal Board of Trade for an Order directing the railway companies to grant the right to Ontario and Quebec mills to mill in transit grain grown in Ontario and Quebec.

File No. 8641.12

Upon hearing the matter at various sittings of the Board held in Ottawa, Toronto, Sudbury, Vancouver, Victoria, Vernon, Nelson, Lethbridge, Calgary, Edmonton, Saskatoon, Regina, Winnipeg, and Fort William, in the presence of representatives of the applicants, the railway companies, and other parties interested, and what was alleged,—

The Board Orders: That all railway companies subject to the jurisdiction of the Board file tariffs, effective not later than the 1st day of February, 1922, showing a charge of one cent per 100 pounds for the stop-over privilege on all

grain for storage, milling, malting, or other treatment; such privilege to be granted for all grain produced in Canada, subject to a reasonable charge for out of line hauls.

F. B. CARVELL,
Chief Commissioner.

OTTAWA, January 4, 1922.

GENERAL ORDER No. 355

In the matter of the appointment of caretaker agents at non-agency stations.

File No. 4205.7

Whereas the railway companies subject to the jurisdiction of the Board are required from time to time to appoint caretaker agents at stations at which regular station agents are not maintained,—

The Board Therefore Declares: That the duties of a caretaker agent shall be as follows, namely: To see that the station is kept clean and, when necessary, heated and lighted for the accommodation of passengers, and to be present on the arrival and departure of trains; such duties to be the same as those of a regular station agent, excepting the billing of freight and handling the telegraph system.

F. B. CARVELL,
Chief Commissioner.

OTTAWA, January 5, 1922.

GENERAL ORDER No. 356

In the matter of the General Order of the Board No. 102, dated February 17, 1913, prescribing Rules and Regulations Respecting Safety Appliances on trains of railway companies subject to the jurisdiction of the Board.

File No. 11654.26

Upon reading the submissions filed on behalf of the Order of Railway Conductors of America, the Brotherhood of Railroad Trainmen, the Railway Association of Canada, and the Michigan Central and the Wabash Railroad Companies; and upon the report and recommendation of the Mechanical Expert of the Board, concurred in by its Chief Operating Officer,

The Board Orders: That the provision covering caboose platform-steps, under the heading, "Caboose Cars with Platform," in the said General Order No. 102, dated February 17, 1913, be struck out and the following inserted in lieu thereof, namely:—

"Caboose Platform-Steps:

"Safe and suitable open, or box, steps leading to caboose platforms to be provided at each corner of caboose.

"Where open steps are used, the bottom tread of said steps to be provided with a right and left foot-stop at each end of tread, made of angle iron $3\frac{1}{2}$ x $2\frac{1}{2}$ x $\frac{1}{4}$ inch; the $2\frac{1}{2}$ inch face of angle iron to be bolted to the step".

F. B. CARVELL,
Chief Commissioner.

OTTAWA, January 12, 1922.

GENERAL ORDER No. 357

In the matter of the application of the Canadian National Millers' Association and the Dominion Millers' Association for an order suspending the tariffs or supplements to the tariffs filed with the Board in pursuance of its General Order No. 354, dated January 4, 1922, increasing the rates for out-of-line haul on Western grain milled in Eastern Canada.

File No. 8641.12.

Upon reading the application and what was alleged in support thereof,—

The Board Orders: That the tariffs or supplements to tariffs filed by the railway companies in accordance with the requirements of the said General Order No. 354, dated January 4, 1922, in so far as such tariffs or supplements to tariffs increase the charge for out-of-line haul on western grain moving all rail or lake and rail to milling points in Eastern Canada, be, and the same are hereby, suspended from their effective dates, with leave to the said railway companies to apply to the Board for an adjustment of rate, if necessary.

OTTAWA, February 14, 1922.

F. B. CARVELL,
Chief Commissioner.

GENERAL ORDER No. 358

In the matter of applications to the Board in respect to railway crossings of highways in the Provinces of Manitoba, Saskatchewan, Alberta, and British Columbia.

File No. 24420.1

In pursuance of the powers conferred upon the Board by sections 34 and 256 of the Railway Act, 1919, and of all other powers possessed by it in that behalf,—

The Board Orders: That all railway companies within the legislative authority of the Parliament of Canada, constructing or operating railways in the provinces of Manitoba, Saskatchewan, Alberta, and British Columbia, do, in addition to any notice required to be served upon the local municipality, or other persons concerned, serve copies of notices of all applications to the Board with respect to railway crossings of highways in the said provinces, and outside the limits of incorporated cities or towns therein, upon the following representatives of the Governments of the said provinces, respectively, namely:—

(1) In the Province of Manitoba, upon the Minister of Public Works.
(2) In the Province of Saskatchewan, upon the Minister of Highways.
(3) In the Province of Alberta, upon the Minister of Public Works.
(4) In the Province of British Columbia, upon the Minister of Public Works.

And shall furnish the Board with evidence of service of such notice before any such application shall be disposed of by the Board.

F. B. CARVELL,
Chief Commissioner.

OTTAWA, February 22, 1922.

GENERAL ORDER No. 359

In the matter of the General Order of the Board No. 355, dated January 5, 1922, defining the duties of a "caretaker agent."

File No. 4205.7

The Board Orders: That the said General Order No. 355, dated January 5, 1922, be, and it is hereby, rescinded.

F. B. CARVELL,
Chief Commissioner.

OTTAWA, March 2, 1922.

GENERAL ORDER No. 360

In the matter of the application of D. Robertson & Company, Limited, of Milton, Ontario, and the Standard White Lime Company, Limited, of Guelph, Ontario, hereinafter called the "Applicants", for an order requiring railway companies to supply temporary doors for shipments of lime, in carloads, or to make an allowance when the same are furnished by shippers.

File No. 4106.36

Upon hearing the matter at the sittings of the Board held in Toronto, January 5, 1922, the applicants, the Christie, Henderson Company, Limited, and the Grand Trunk and Canadian Pacific Railway Companies being represented at the hearing, and what was alleged; and upon reading the further submissions filed,—

The Board Orders: That railway companies subject to the jurisdiction of the Parliament of Canada be, and they are hereby, required, not later than March 16, 1922, to amend their tariffs so as to provide for the allowance, at points east of Fort William, of fifty cents per car door of not less than twenty-one square feet, when furnished by shippers of lime, in bulk.

S. J. McLEAN,
Assistant Chief Commissioner.

OTTAWA, March 6, 1922.

GENERAL ORDER No. 361

In the matter of section 285 of the Railway Act, 1919; the General Order of the Board No. 244, dated July 26, 1918, as amended by General Order No. 251, dated October 4, 1918; Circular No. 110, dated April 3, 1913, and Supplements thereto Nos. 1 and 2, dated respectively April 30, 1918; and June 6, 1918; Circular No. 131, dated March 11, 1914; and Circular No. 161, dated March 8, 1918.

File No. 45

The Board Orders as follows:

1. That every railway company subject to the legislative authority of the Parliament of Canada be, and it is hereby, required and directed, within six days after the head officers of the company have received information of the occurrence upon the railway belonging to it, or operated by it, of any accident attendant with personal injury to any person using the railway, or to any employee of the company, or whereby any bridge, culvert, viaduct or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, to give notice thereof to the Board, such notice to be addressed to the Chief

Operating Officer of the Board, and to be printed on hard paper in the forms "A" (relating to highway crossing accidents only) and "B" (relating to accidents other than those occurring at highway crossings), schedules to this order; such reports to refer to such accidents as above specified as occur as a result of transportation, that is to say, where movements of trains, engines, or cars are involved therein, and not to accidents occurring in railway shops, or manufacturing establishments, or other places on the railway, unless caused directly or indirectly by train, engine, or car movements.

2. That in the case of—

(*a*) derailments, collisions, failure of locomotive boiler, highway crossing accidents, when the same are attended with personal injury to any person using the railway, or to any employee of the company;

(*b*) all other accidents occurring on the railway, attended with personal injury to any person using the railway, or to any employee of the company, and in which accidents the movement of trains, engines, or cars is involved (but not in the case of accidents occurring in railway shops, manufacturing establishments, or other places of the railway company in which the movement of trains, engines, or cars is not involved in the accident); and

(*c*) any damage caused by any such accident to any bridge, culvert, viaduct, or tunnel on the railway, rendering the same impassable or unfit for immediate use (and whether attended by personal injury to any person or employee of the company or not)—

the conductor or other employee of the railway company who is in charge of the train, place, or structure in connection with which the accident occurred, shall, at the expense of the company, and at the same time as he reports to the company, send a telegram, addressed to the Chief Operating Officer of the Board at Ottawa, containing the following information:—

(*a*) Date and place.
(*b*) Name of railway.
(*c*) Number and description of train or trains, engine or engines, concerned.
(*d*) Number of passengers, employees, or others killed and injured.
(*e*) Statement of any damage to any bridge, culvert, viaduct, or tunnel.
(*f*) A short and concise statement of the apparent cause of the accident.
(*g*) Name and title of person sending report.

3.That where any such company grants, or has granted, running rights, or the joint use of its line, or any portion thereof, to another company, and the last named company is concerned in an accident occurring on said joint section required under this Order to be reported, the operating company shall report to the Board as herein provided.

4. That every such railway company place before its conductors or other employees affected by this order a copy of paragraph 2 of the order, directing the said conductors or other employees to comply directly with its requirements.

5. That all reports, whether written or telegraphed, made pursuant to this order, be privileged from production.

6. That the said General Order No. 39, Circular No. 110 with Supplements Nos. 1 and 2, Circular No. 131, and Circular No. 161, and General Orders Nos. 244 and 251 be, and they are hereby, rescinded.

F. B. CARVELL,
Chief Commissioner.

OTTAWA, March 15, 1922.

SCHEDULE "A"

.....192..

.....Railway

Report to the Board of Railway Commissioners for Canada as required by Section 285 of the Railway Act and General Order of the Board No. 361

1. Date and hour of accident				
2. Train	Conductor		Engine	
	Engineer			
3. Province				
4. *Place of accident.* State if in city, town, village, or township. If in city, town or village give name of street; if no name, say how many crossings from station specifying direction. If in township, give distance in miles and fraction of mile from nearest station, specifying direction, also give distance of nearest mile post of sub-division and any other information of an identifying character.				
5. (a) Particulars of accident. (b) Name of persons injured or killed and addresses.				
6. Was crossing protected at time of accident and if so in what manner?				
7. Time and date, speed limitation of ten miles an hour established or watchman put on as required by section 309 (clause "c") and General Order No. 77.				
8. If any previous accident at same place subsequent to 1900, give date, if more than one accident give date of last one only.				
9. Remarks covering any other information that the Company thinks should be submitted not covered by the foregoing details.				

I certify that from inquiries made by me, or my knowledge, the foregoing return is correct.

Signature.....

Title.....

N.B.—Use only one form for each accident, attaching plain extension sheets if insufficient space here.

SCHEDULE "B"

.....192..

.....Railway

Report to the Board of Railway Commissioners for Canada as required by Section 285 of the Railway Act and General Order of the Board No. 361

1. Date.			
2. Hour.			
3. Train.....	Conductor		Engine
	Engineer		
4. Place..... Province.....			
5. Name of person injured.			
6. Age.			
7. Passenger, employee or others.....			
8. Residence.			
9. Description of injury.			
10. How accident occurred. NOTE.—If injury or damage be to a bridge, culvert, viaduct or tunnel, answer numbers 1, 2, 4, 9 and 10.			

N.B.—Use only one form for each accident, attaching plain extension sheets if insufficient space here

Signature.....

Title.....

GENERAL ORDER No. 362

In the matter of the General Order of the Board No. 107, dated July 4, 1913, prescribing regulations to be adopted by railway companies for the prevention of fires.

File No. 4741-A

Upon reading the submissions filed by the Railway Association of Canada, on behalf of the railway companies interested; and upon the report and recommendation of the Chief Operating Officer and the Chief Fire Inspector of the Board,—

The Board orders as follows:—

1. That Orders Nos. 3245, dated July 4, 1907; 3465, dated August 14, 1907; 8903, dated December 15, 1909; 15995, dated February 16, 1912; 16570, dated May 22, 1912; and General Order No. 107, dated July 4, 1913, be, and they are hereby, rescinded.

2. Unless exempted by special order of the Board every railway company subject to the legislative authority of the Parliament of Canada, the railway of which is under construction, or being operated by steam, shall cause all locomotives and other portable boilers, other than those using oil as fuel, used on the railway, to be fitted and kept fitted in good order with practical and efficient devices for arresting the escape of sparks or live coals, as hereinafter set forth:—

(*a*) Every locomotive boiler equipped with an extension smokebox shall have installed therein, so as to extend completely over the aperture through

which the smoke ascends, a double-crimpled wire netting, the mesh of which shall not be larger than 2½ by 2½ per inch of No. 10 Birmingham wire gauge; the openings of said mesh not to exceed a quarter of an inch and one sixty-fourth (that is seventeen sixty-fourths) of an inch square when new. The condemning limit of the said netting shall be nineteen sixty-fourths of an inch.

Experimental or improved devices which are not in full accord with this clause shall be tried only on receipt of permission from the Chief Operating Officer of the Board.

(*b*) Every locomotive equipped with a diamond stack shall be fitted with a cast iron deflecting cone and double-crimped wire netting with a mesh not more than 3 by 3 per inch of No. 10 Birmingham Wire Gauge, placed in the flare of the diamond of the stack, so as to cover the same completely; the openings of the said mesh not to exceed three-sixteenths and one sixty-fourth (that is thirteen sixty-fourths) of an inch square when new. The condemning limit of the said netting shall be fifteen sixty-fourths of an inch.

(*c*) All steam shovels, ditching machines, and pile drivers, having exhaust in stack and burning coal, shall be equipped with a wire netting in the front end, in accordance with the standard prescribed in subsection (*a*), or with a bonnet screen or double-crimped wire netting mesh device on the top of the smoke stack, as may be most practicable. All openings between the bonnet netting and stack must be fitted so as to leave no opening larger than the mesh of the netting. The condemning limit of the said netting shall be the same as subsection (*a*).

3. Manhole, and door openings of superheater type next to the tube sheet, shall be securely closed and held in place by cotters or keys, so constructed that they cannot fall out. All dead plates and nettings shall be securely fastened to the smokebox shell by angle irons of sufficient width to hold the same in position. In no case must there be an opening in the dead plates where fitted around steam pipes or superheater doors, or any joints, in excess of one-eighth of an inch in width. Cement or asbestos must not be used to fill openings in the fitting or fire-protective appliances.

4. (*a*) The openings of ashpans of locomotives with narrow fireboxes shall be covered with metal dampers.

(*b*) Ashpan slides and doors of locomotives, when closed, shall be secured in that position by a heavy spring or by any other positive method.

(*c*) Locomotive ashpan draft ports or openings shall be protected by solid deflecting plates, netting, or perforated plates, so placed as to protect the opening. Where netting is used, it shall be protected by deflecting plates.

(*d*) On locomotives where rods pass through the ashpan, the opening for operation shall be no larger than is actually necessary, and shall be protected wherever practicable by deflecting aprons or hoods, so placed as to prevent the escape of ashes and fire. Damper rods from the cab shall be disconnected between the first day of April and the first day of November each year, or during the additional period, if any, as provided in subsection (*f*).

(*e*) Overflow pipes from injectors, or a separate pipe from boiler, or water pipes from injector delivery pipe, shall be fitted into the ashpans with the necessary valve and other fixtures to supply water to all hoppers of the ashpan at the same time.

(*f*) Sufficient water to dampen ashes and extinguish fire falling from the grates must be supplied from April 1 to November 1 each year, or during such additional period as may be required in any particular territory by the Chief Operating Officer of the Board.

5. That every railway company provide adequate inspection at terminal or divisional points where its locomotive engines, steam shovels, ditching machines, and pile drivers are housed and repaired, and at other points where necessary, and cause—

(*a*) An examination to be made, at least once a week, of—

1. The netting;
2. Dead plates;
3. Ashpans;
4. Dampers;
5. Slides and doors;
6. Any other fire-protective appliances;

(*b*) And a record to be kept of every inspection in a book to be furnished by the railway company for the purpose, showing—

1. The numbers of engines, steam shovels, ditching machines, and pile drivers inspected;
2. The date and hour of day of such inspection;
3. The condition of the said fire-protective appliances and arrangements; and
4. A record of repairs made in any of the above mentioned fire-protective appliances. The said book to be open for inspection by any authorized officer of the Board.

(*c*) In case any of the said fire-protective appliances are found to be defective, the said equipment shall be removed from service, and shall not (during the said prescribed period) be returned to service unless and until such defects are remedied.

(*d*) Every railway company shall make an independent examination of the fire-protective appliances on all locomotives, steam shovels, ditching machines and pile drivers of such company, at least once each month, and the conditions of such fire-protective appliances shall be reported direct to the Chief Mechanical Officer of the railway company, or other chief officer held responsible for the condition of the motive power of the said company.

6. That no employees of any such railway company—

(*a*) do, or in any way cause, damage to the netting or other fire-protective appliances on any locomotive or other boiler in service;

(*b*) open the back dampers of any locomotive while running ahead, or the front dampers while running tender first, except when there is snow on the ground and it is necessary to take such action in order to have the engine steam properly.

7. That no such railway company permit fire, live coals, or ashes to be deposited on its tracks or right of way, unless they are extinguished immediately thereafter, except in pits provided for the purpose.

8. That, unless otherwise ordered, no such railway company, between April 1 and November 1, burn as fuel on its locomotives, steam shovels, ditching machines, and pile drivers, any coal not possessing good coking properties, the use of which with standard front-end fire-protective appliances prescribed by clause 2, results in the emission of sparks from the stack to an extent deemed by the Board to be dangerous to the public interest, unless such equipment is provided with special fire-protective appliances approved by the Board. Whether any particular coal possesses good coking properties shall be determined by certificate from the Mines Branch, Department of Mines, Ottawa.

9. That railway companies take all reasonable precautions to eliminate the danger of fires being set along railway lines by passengers and employees throwing burning smoking materials from trains. The measures to be taken shall include the posting of warning notices in cars or compartments of cars in which smoking is permitted, and the issuance at suitable intervals during the fire season of verbal warnings to passengers in such cars or compartments, including observation platforms and open observation cars. The territory within which they shall be effective shall be determined by the Chief Fire Inspector.

10. That every such railway company establish and maintain fireguards along the route of its railway as the Chief Fire Inspector may prescribe. The nature, extent, establishment, and maintenance of such fireguards shall be determined as follows:—

(*a*) The Chief Fire Inspector shall each year prepare and submit to every such railway company a statement of the measures necessary for establishing and maintaining the routes of such railways in a condition safe from fire, so far as may be practicable.

(*b*) Said measures may provide for the cutting and disposal by fire or otherwise of all or any growth of an inflammable character, and the burning or other disposal of debris and litter, on a strip of sufficient width on one or both sides of the track; the ploughing or digging of land in strips of sufficient width on one or both sides of the track; and such other work as may, under the existing local conditions and at reasonable expense, tend to reduce to a minimum the occurrence and spread of fire.

(*c*) Said statements of the Chief Fire Inspector shall be so arranged as to deal with and prescribe measures for each separate portion of such railway upon and adjacent to which the fire risk calls for specific treatment. The intention shall be to adjust the protective measures to the local conditions, and to make the expense proportionate to the fire risk and possible damage.

(*d*) Said statements of the Chief Fire Inspector shall prescribe dates on or within which the foregoing protective measures shall be commenced and completed, and the fireguards maintained in a clean and safe condition.

(*e*) No such railway company shall permit its employees, agents, or contractors to enter upon land under cultivation to construct or maintain fireguards, without the consent of the owner or occupant of such land.

(*f*) Wherever the owner or occupant of such land objects to the construction or maintenance of fireguards, on the ground that the said construction or maintenance would involve unreasonable loss or damage to property, the company shall *at once* refer the matter to the Board, giving full particulars thereof, and shall in the meantime refrain from proceeding with the work.

(*g*) No such railway company shall permit its agents, employees, or contractors to leave gates open or to cut or leave fences down whereby stock or crops may be injured, or to do any other unnecessary damage to property in the construction or maintenance of fireguards.

11. That in carrying out the provisions of section 280 of the Railway Act, 1919, which enacts that "the company shall at all times maintain and keep its right of way free from dead or dry grass, weeds, and other unnecessary combustible matter," no such railway company, or its agents, or contractors, between the first day of April and the first day of November, burn or cause to be burned any ties, cuttings, debris, or litter upon or near its right of way, except under such supervision as will prevent such fires from spreading beyond the strip being cleared. The Chief Fire Inspector or other authorized officer of the Board may require that no such burning be done along specified portions of the line of any such railway, except with the written permission or under the direction of the Chief Fire Inspector or other authorized officer of the Board.

12. That the railway company provide and maintain a force of fire rangers fit and sufficient for efficient patrol and fire-fighting duty during the period from the first day of April to the first day of November of each year; and the methods of such force shall be subject to the supervision and direction of the Chief Fire Inspector or other authorized officer of the Board.

13. That the Chief Fire Inspector each year prepare and submit to each and every railway company a statement of the measures such railway companies shall take for the establishment and maintenance of said specially organized force. Said statements, among other matters, may provide for:—

(*a*) The number of men to be employed on the said force, their location and general duties, and the methods and frequency of the patrol;

(*b*) The acquisition and location of necessary equipment for transporting the said force from place to place, and the acquisition and distributing of suitable fire-fighting tools; and

(*c*) Any other measures which are considered by him to be essential for the immediate control of fire and may be adopted at reasonable expense.

14. That every such railway company instruct and require its sectionmen and other employees, agents, and contractors to take measures to report and extinguish fires on or near the right of way as follows:—

(*a*) Conductors, engineers, or trainmen who discover or receive notice of the existence and location of a fire burning upon or near the right of way, or of a fire which threatens land adjacent to the right of way, shall report the same by wire to the Superintendent, and shall also report it to the agent or persons in charge at the next point at which there shall be communication by telegraph or telephone, and to the first section employees passed. Notice of such fire shall also be given immediately by a system of warning whistles, or by such other method as may be approved by the Board.

(*b*) It shall be the duty of the Superintendent, or agent, or person so informed to notify immediately the nearest forest officer and the nearest section employees of the railway, of the existence and location of such fire.

(*c*) When fire is discovered, presumably started by the railway, such sectionmen or other employees of the railway as are available shall, either independently or at the request of any authorized forest officer, proceed to the fire immediately and take action to extinguish it: Provided such sectionmen or other employees are not at the time engaged in labours immediately necessary to the safety of trains.

(*d*) In case the sectionmen or other employees available are not a sufficient force to extinguish the fire promptly, the railway company shall, either independently or at the request of any authorized forest officer, employ such other labourers as may be necessary to extinguish the fire; and as soon as a sufficient number of men, other than the sectionmen and regular employees, is obtained, the sectionmen and other regular employees shall be allowed to resume their regular duties.

(*e*) The provisions of this section shall apply to all fires occurring within 300 feet of the railway track, unless proof shall be furnished that such fires were not caused by the railway.

15. That every such railway company give particular instructions to its employees in relation to the foregoing regulations and cause such instructions to be posted at all stations, terminals, and section houses along its lines of railway. In case said instructions are not also carried in employees' time tables during said prescribed period, or in "operating" and "maintenance of way" rule books, they shall, previous to April 1st of each year, be reissued to all employees concerned, in the form of special instructions. The Chief Operating Officer or the Chief Fire Inspector, as the case may be, may waive the above

requirements in whole or in part as to lines or portions of lines where, in his judgment, the fire danger is not material.

16. That every such railway company allowing or permitting the violation of, or in any respect contravening or failing to obey any of the foregoing regulations, be subject, in addition to any other liability which the said company may have incurred, to a penalty of one hundred dollars for every such offence.

17. That if any employee or other person included in the said regulations, fails or neglects to obey the same, or any of them, he shall, in addition to any other liability which he may have incurred, be subject to a penalty of twenty-five dollars for every such offence.

18. That the Board may, upon the application of any railway company or other party interested, vary or rescind any order or direction of the Chief Fire Inspector, made pursuant to the provisions of this Order.

F. B. CARVELL,
Chief Commissioner

OTTAWA, April 19, 1922.

GENERAL ORDER No. 363

In the matter of the application of the Canadian Freight Association, on behalf of the railway companies subject to the jurisdiction of the Board, under section 322 of the Railway Act, 1919, for approval of a proposed Supplement No. 19 to the Canadian Freight Classification No. 16, containing certain increased, reduced, and additional ratings, on file with the Board under file No. 19367.132:

Whereas notice has been given by the railway companies in the *Canada Gazette*, as required by section 322 of the Railway Act, 1919, and to the mercantile organizations enumerated in the General Order of the Board No. 153, dated November 4, 1915, the proposed changes having been considered at a conference of the representatives of the Grand Trunk and Canadian Pacific Railway Companies, the Canadian National Railways, the Canadian Manufacturers' Association, and the Montreal and Toronto Boards of Trade, held at Montreal on the 28th day of March, 1922, when various objections filed with the Board were considered, and the proposed changes agreed to, modified, or eliminated; and upon the consideration of what has been filed, and the report and recommendation of the Assistant Chief Traffic Officer of the Board,—

The Board orders: That the proposed Supplement No. 19 to the Canadian Freight Classification No. 16, as finally revised and submitted for approval by G. C. Ransom, chairman of the Canadian Freight Association, by his letter dated April 13, 1922, and as amended by his letter dated May 1, 1922, be, and it is hereby, approved.

F. B. CARVELL,
Chief Commissioner

OTTAWA, May 10, 1922.

GENERAL ORDER No. 364

In the matter of the application of the Canada Cement Company, Limited, for rates on agricultural limestone from Belleville, Ontario, on the same basis as those in effect from Beachville and Kirkfield, Ontario:

File No. 26786.6

Upon hearing the application at the sittings of the Board held in Ottawa, May 18, 1920, the applicant company, the Canadian Freight Association, the Grand Trunk and Canadian Pacific Railway Companies, and the Canadian National Railways being represented at the hearing, and what was alleged; and upon reading the further submissions filed, and the report of its Assistant Chief Traffic Officer,—

The Board orders: That all railway companies subject to the jurisdiction of the Board file tariffs, to become effective not later than June 15, 1922, showing the following mileage scale, to apply on agricultural limestone or stone dust east of Port Arthur, Fort William, and Armstrong, in lieu of the specific commodity rates or mileage scale now in effect, namely:—

Miles	Rates in cents per 100 pounds
Not over 10	5
Over 10 not over 20	5½
Over 20 not over 30	6
Over 30 not over 40	6½
Over 40 not over 50	7
Over 50 not over 60	7½
Over 60 not over 70	8
Over 70 not over 80	8½
Over 80 not over 90	9
Over 90 not over 100	9½

Over 100 miles to 300 miles, the rates to be increased one-half cent per 100 pounds for each group of 25 miles. Over 300 miles, the rates to be increased one cent per 100 pounds for each group of 50 miles.

F. B. CARVELL,
Chief Commissioner.

OTTAWA, May 23, 1922.

GENERAL ORDER No. 365

In the matter of Section 345 of the Railway Act, 1919, and the regulations approved thereunder by General Order of the Board No. 290, dated April 12, 1920.

File No. 496.38

Whereas the said section 345 provides, *inter alia*, for the making of periodical returns, duly verified by affidavit, to the Board in respect of the carriage of traffic at free or reduced rates under the Act, issued by companies within the legislative authority of the Parliament of Canada; and that it shall be the duty of the Board to examine such returns with a view to seeing that the law has been observed;

And whereas, for the year 1920 alone, the Board agreed that it would not, during the transitional period involved, require details of persons to whom the railway companies issued transportation in the classes of the railways, known as officers, agents, or former employees, officers, agents, or employees of other railway or transportation companies, and the Governor General's staff; but that

as to all other classes of persons, the railway companies must give the individual names, with such description as to place the Board in a position to investigate them, if necessary;

And whereas certain of the railway companies, subject as aforesaid to the jurisdiction of the Board, have failed to make the returns so required by the Act—

The Board therefore orders as follows:—

1. (*a*) That all railway companies in default in filing details of returns as provided by the Act, for 1920, not excepted by the Board as above set forth, be, and they are hereby, required to file such details not later than the first day of October, 1922.

(*b*) That all railway companies file, not later than October 1, 1922, complete returns called for by the Act, for 1921

(*c*) For the year 1922, the filing to be as follows, for the periods set out: The return for the period January to June, 1922, is to be filed by October 1, 1922; for July to September is to be filed by November 1, 1922; and October to December 31 is to be filed by February 1, 1923.

(*d*) For the year 1923, the filings are to be: January to March, 1923, by May 1, 1923; April to June, by August 1, 1923; July to September, by November 1, 1923; and October to December 31, by February 1, 1924.

2. That the returns thereafter be made quarterly on the same monthly dates as directed in paragraph (*d*) of section 1 of this order.

3. That all railway companies failing to comply with the requirements of this order be, and they are hereby, made subject to a penalty of $100 a day for every day in which a railway company shall be in default in filing such return in accordance with this order.

4. That all railway companies in default in filing returns in respect of which the specific date is set out in the regulations as approved by the said General Order No. 290, for the year 1922, be, and they are hereby, required to file the same not later than October 1, 1922, and thereafter on or before the 1st day of January for each succeeding year.

5. Every such railway company shall be subject to a penalty of $100 a day for each violation of the said regulations.

F. B. CARVELL,
Chief Commissioner.

OTTAWA, June 26, 1922.

GENERAL ORDER No. 366

In the matter of the freight tolls, 1922.

File Nos. 30531, 30685, 30686, and 30686.2

Upon hearing the matter at the sittings of the Board held in Vancouver, April 7 and October 17, 18, 19, and 20; Victoria, April 11; Kamloops, October 26; Nelson, April 15 and October 29; Calgary, April 18 and October 31; Edmonton, April 20 and November 2; Saskatoon, April 21 and November 3; Regina, April 22 and November 4; Brandon, April 23; and Winnipeg, April 25 and November 8; respectively, 1921; and in Halifax, January 17; St. John, January 19, and Ottawa, February 15, 16, 17, 20, 21, and 22, and March 13 to 30, respectively, 1922, in the presence of counsel for and representatives of the provinces of Nova Scotia, New Brunswick, Manitoba, Saskatchewan, and British Columbia, the Maritime Board of Trade, the Boards of Trade of Halifax,

Montreal, Toronto, Sault Ste. Marie, Winnipeg, Calgary, Nelson, Lethbridge, Edmonton, the Canadian Manufacturers' Association, the Railway Association of Canada, Canadian Lumbermen's Association, Limited, Canadian Retail Coal Dealers' Association, Dominion Millers' Association, United Farmers of Manitoba, United Farmers of Alberta, United Grain Growers, Saskatchewan Grain Growers' Association, Wholesalers' Association of Calgary, Western Canada Live Stock Union, Canadian Aberdeen Angus Association, Amherst Foundry, J. W. Cunningham Company, Stetson Cutler and Company, Saskatchewan Co-operative Elevator Company, W. Malcolm McKay, Limited, Northern Foundry and Machine Company, the Canadian Pacific and Grand Trunk Railway Companies, and the Canadian National Railways, and what was alleged at the hearings, judgment, dated June 30, 1922, was delivered by the Board, a certified copy of the said judgment being attached hereto marked "A",—

The Board Orders: That all railway companies operating steam railways, subject to the jurisdiction of the Board, be, and they are hereby, required forthwith to file tariffs giving effect to the rates prescribed and authorized by the said judgment, which is hereby made part of this order; the effective date of the said rates to be August 1, 1922.

F. B. CARVELL,
Chief Commissioner.

OTTAWA, June 30, 1922.

Re Freight Tolls, 1922

Files Nos. 30531, 30685, 30686, and 30686.2

BY THE BOARD:

Shortly after the promulgation of General Order No. 308 of this Board, being the order providing for the general rate increases known as the Thirty-five and Forty Per Cent Case, effective September 13, 1920, various bodies, among them the province of Manitoba, appealed to the Privy Council asking that the said order be rescinded for various reasons set forth by the appellants. The matter was heard by the Privy Council, and, on the 6th day of October, 1920, by P.C. No. 2434, His Excellency in Council dismissed the appeal, but, in doing so, stated as follows:—

> "What constitutes a fair and reasonable rate should now be arrived at without reference to the requirements of the Canadian National System and your committee recommends that the order in this case be referred back to the Board to be corrected in its findings in such manner as to determine what are fair and reasonable rates without taking into account at all for the time the order shall be in effect, the requirements of the Canadian National System.
>
> "Very strong representations were made at the argument on appeal to the effect that the order continued and indeed intensified an unjust discrimination in rates, it being claimed that higher freight rates prevail generally in Western Canada, that is west of Fort William, then prevail in Eastern Canada, that is east of Fort William. It was strongly urged that the reasons, whatever they may have been, for this differential no longer exist, and that as a matter of public policy the principle of equalization of rates East and West should now be recognized. On the other hand, it was urged that the competition arising out of lake and river transportation as well as out of lower competitive rates on Eastern United States lines compelled a somewhat lower scale in Eastern Canada than in Western Canada. Whether or not these reasons now

obtain in any substantial degree is a question which requires minute and expert investigation such as can be best conducted by the Railway Commission itself and not by Your Excelleney's advisers, but the committee is strongly impressed with the very great desirability of bringing about with the least possible delay equalization of Eastern and Western rates.

"The Committee of the Privy Council therefore further recommend that as conditions have probably changed materially in recent years tending more and more to make equalization practicable, an inquiry by the Board be directed to be held at the earliest date with a view to the establishment of rates meeting to the utmost extent possible the above requirement as to equalization."

The Board thereupon started an investigation, primarily to ascertain whether or not conditions had changed as suggested by the Order in Council and as to whether the difference in rates, if any, thus existing in a general way between Eastern Canada and Western Canada amounted to undue discrimination against Western Canada.

The first sittings was held at Ottawa on the 22nd day of November, 1920, when it was arranged that the Board would hold sittings in Western Canada in the early spring, and, in pursuance thereof, sittings were held in all the principal cities of Western Canada in the month of April, 1921, again in the months of October and November, 1921, and the final argument took place in Ottawa in the months of February and March last.

Very shortly after arrangements were made for such hearings, application was made by representatives of the provinces of New Brunswick, Nova Scotia, and Prince Edward Island alleging that they were unfairly treated in that the arbitraries over Montreal, which they had enjoyed for many years prior to 1916, had been either abolished or materially increased, and asked that the old arbitraries be re-established.

Then the province of British Columbia applied for the elimination of the Mountain scale of rates as applied to that Province, asking that the Prairie scale be extended through to the Pacific coast.

At a later date, application was made by the Lumber Association of Canada and allied interests for a general reduction in the rates upon lumber commodities.

There have also been applications before the Board by the Board of Trade of the city of Sault Ste. Marie and other business interests thereof for the extension of schedule A rates from Sudbury to Sault Ste. Marie, and, finally, an application by the Commercial Travellers' Association of Canada alleging that the 20 per cent increase upon excess baggage provided for by General Order No. 308 should have been eliminated when passenger rates went back to normal on the 1st day of July, 1921, claiming that the excess baggage rate is based upon passenger rates and, therefore, when the passenger rates were reduced, the same principle should be applied to excess baggage.

In addition to this, we have had scores of applications from individuals, corporations, and municipalities asking for a reduction of rates either generally or upon the traffic in which they were respectively interested.

No reference is made herein to the application of the fruit growers of Nova Scotia and the potato growers of the Maritime Provinces for a reduction in the export rate on their commodities, as these rates were increased, not by General Order No. 308, but by General Order No. 303, effective August 26, 1920, and we understand the railway companies have already filed tariffs, effective July 1, reducing these rates by 10 per cent in accordance with the like reductions in the United States under the recent General Order of the Interstate Commerce Commission.

By the terms of General Order No. 308, all increases therein provided for cease to exist on the 1st day of July, 1922, because of the fact that the amendment to section 325 of the Railway Act, 1919, which had the effect of postponing the coming into effect of the Crowsnest pass legislation for three years, expires on the 6th day of July next. Shortly after Parliament opened in March last, the question of the further extension of the coming into operation of the Crowsnest pass legislation was referred to a Special Committee of the House, which has reported, and legislation based thereon has been enacted, being Bill No. 206, which, in effect, provides for the suspension of the operation of the Crowsnest pass legislation for a further period of one year upon all rates and schedules mentioned therein with the exception of grain and flour, the rates upon which latter products on and after the 6th day of July, 1922, shall be those provided for in the original legislation, being Chapter 5 of the Statutes of 1897, and also providing that His Excellency the Governor General in Council may extend the provisions of the said Act for an additional term of one year, if, in their judgment, it is considered advisable to do so.

COMPARISON OF CANADIAN AND UNITED STATES FREIGHT RATES

It is considered advisable at this stage to give a comparison of the general rate structures of Canada at present as compared with the rate structures of the United States as they will be on and after the 1st day of July next, because, on account of the great similarity between railway operations and business conditions in the two countries as well as the very large volume of international traffic, it is well to know as nearly as possible the exact relationships of the rate structures of both countries.

Two or three years ago, and before the general increase in rates in the United States authorized by the Interstate Commerce Commission under Ex Parte 74, effective August 26, 1920, a careful comparison was made between the general level of freight rates in Canada and the United States which showed, having regard to all the controlling conditions, that the general level was slightly in favour of the Canadian shipper.

Freight rates in Canada were not increased during the first four years of the war, but in 1918 and 1920 it was necessary, not only in Canada, but in other countries as well, to materially increase freight rates, so as to enable the privately-owned railways, but not in full measure, to meet their advancing operating costs which had increased by leaps and bounds and in a manner entirely without precedent or parallel. The wage increases in 1918 and 1920, coupled with the increased cost of coal and other materials and supplies, resulted in such increases in railway operating costs that a substantial increase in freight rates was inevitable.

Notwithstanding that the employees of the Canadian railways were granted increases in wages equal to those in the United States and that increased costs and war conditions bore even more heavily upon railway conditions in Canada than in the United States, the increase in rates as authorized by this Board did not bear as heavily on the Canadian public as the increase authorized in the United States by the Interstate Commerce Commission, as will be clearly evidenced by the following.

These general increases, commonly known as the forty per cent increases, although in fact they averaged appreciably under that figure, became effective in the United States on the 26th day of August, 1920, and in Canada on the 13th day of September, 1920. There has been no general decrease in freight rates authorized in the United States since August 26, 1920, although there will be a general decrease of 10 per cent effective July 1, 1922. On the other hand, the increased rates effective September 13, 1920, in Canada, were subject to a

general decrease of 5 per cent January 1, 1921, and a further general decrease of 10 per cent December 1, 1921. The situation is illustrated below, taking in each case for simplicity of illustration, a rate of $1 per 100 pounds:—

CANADA

—	Rate prior to Sept. 13, 1920	Effective Sept. 13, 1920. Rate increased to	Effective Jan. 1, 1921. Rate decreased to	Effective Dec. 1, 1921. Rate decreased to
	$ cts.	$ cts.	$ cts.	$ cts.
East	1 00	1 40	1 35	1 25
West	1 00	1 35	1 30	1 20

INTERTERRITORIAL TRAFFIC

Percentage of increase in rates within territories east and west of Port Arthur applied to the east and west factors thereof respectively.

UNITED STATES

—	Rate prior to Aug. 26, 1920	Effective Aug. 26, 1920. Rate increased to	Effective July 1, 1922. Rate decreased to
	$ cts.	$ cts.	$ cts
Eastern Group	1 00	1 40	1 26
Western Group	1 00	1 35	1 21½
Southern and Mountain Pacific Groups	1 00	1 25	1 12½
Inter-territorial Traffic	1 00	1 33⅓	1 20

Further, under this Board's General Order 308, September 9, 1920, the railways were prohibited from increasing rates on—

Crushed stone, sand, and gravel.
Minimum class rate scale.
Minimum charge per shipment.
Switching, interswitching, milling-in-transit, diversion, reconsignment, stop-overs, demurrage, weighing, etc.

The increase allowed in rates on cordwood, slabs, edgings and mill refuse for use as fuel was limited to 10 per cent.

The increase in coal rates was limited as follows:—

In rates 0 to 80 cents per ton, 10 cents.
In rates 80 to 150 cents per ton, 15 cents.
In rates over 150 cents per ton, 20 cents.

In the United States, under Ex Parte 74, July 29, 1920, there was no similar limitation with respect to rates on crushed stone, sand, gravel, and coal, and they were subject to the same percentage increases as authorized for other traffic; further, the percentage increase applicable in the group where service is performed was made in the charges for switching, transit arrangements, weighing, diversion, reconsignment, lighterage, floatage, storage (not including track storage), and transfer, while no increases for these services were allowed in Canada.

The coal traffic is, of course, a very large and important movement, and the following illustrations show what the limitation in Canada meant as compared with the percentage increase in the United States. The increases allowed were:—

	In Canada Effective Sept. 13, 1920	In United States effective Aug. 26, 1920		
		Eastern Group	Western Group	Southern and Mountain Pacific Group
		per cent	per cent	per cent
In rates 0 to 80 cts. ton—10 cts. per ton		40	35	25
In rates over 80 to 150 cts. ton—15 cts. per ton		40	35	25
In rates over 150 cts.—20 cts. per ton		40	35	25

To illustrate—

—	In United States			In Canada
	East	West	South and Mountain Pacific	
	cts.	cts.	cts.	cts.
A rate of 80 cts. per ton became	112	108	100	90
A rate of 150 cts. per ton became	210	203	188	165
A rate of 300 cts. per ton became	420	405	375	320

Under the reduction in rates in the United States to become effective July 1, 1922, the situation will be:—

Where rate prior to 1920 increase was	In United States July 1, 1922			In Canada Aug. 1, 1922, on Anthracite	In Canada Aug. 1, 1922 on all other coal
	East	West	South and Mountain Pacific		
	cts.	cts.	cts.	cts.	cts.
80 cents per ton now becomes	101	97	90	90	80
150 cts. per ton now becomes	189	182	169	165	150
300 cts. per ton now becomes	378	365	338	320	300

Subsequent to the general increase in 1920, there have been a large number of substantial reductions in Canada between various points on different commodities. In Canada, among the more important reductions made by the railways, were the grain rates from Fort William and Lake ports to the Atlantic seaboard and Eastern Canada; on live stock on which a reduction of approximately 25 per cent was made in July, 1921, from the rates effective September, 1920; on hay in Eastern Canada; on lumber from the Pacific coast to eastern points; on wool and hides from western to eastern points, etc., etc.

In the United States a reduction in carload rates on grain, grain products, and hay in the western and Mountain-Pacific groups became effective in January, 1922; rates on live stock in the same groups in excess of 50 cents per 100 pounds were reduced 20 per cent, but not below 50 cents in October, 1921; and carload rates upon products of the farm, garden, orchard, and ranch were reduced 10 per cent in January, 1922. These are the only three instances where reductions

were made covering the entire country, or the whole of any one or more rate groups, since the increases of 1920 became effective. These rates are not being further reduced in the United States July 1, 1922.

COMPARISON BETWEEN CANADIAN AND UNITED STATES PASSENGER FARES

Immediately prior to August 26, 1920, the standard passenger fare in the United States was 3 cents per mile.

On August 26, 1920, the Interstate Commerce Commission authorized an increase of 20 per cent in all passenger fares, with a standard of 3·6 cents per mile. An increase or surcharge of 50 per cent was allowed in sleeping and parlour car fares, an increase of 20 per cent in excess baggage rates, and 20 per cent increase in rates for the carriage of milk in baggage cars, all effective on the same date.

In Canada, prior to September 13, 1920, the standard passenger fare east of and including McLeod, Calgary, and (Wolf Creek) Thornton, Alberta, was 3 45 cents per mile; west of these points, 4 cents per mile.

By general order of the Board No. 308, the passenger fares were increased by 20 per cent, subject to a maximum of 4 cents per mile. The order did not, therefore, increase passenger fares in British Columbia. An increase of 50 per cent was also allowed in parlour and sleeping car fares, and 20 per cent in excess baggage charge, but no increase was allowed in the rates for the carriage of milk in baggage cars.

On January 1, by the same order, the standard passenger rate east of McLeod, Calgary and Thornton was reduced to 3·795 cents per mile, and on July 1, 1921, the standard passenger fare reverted to 3·45 cents per mile.

On December 1, 1921, the increase or surcharge in parlour and sleeping car fares was reduced to 25 per cent over those in effect prior to September 13, 1920.

Comparison of rates in Canada and in the United States at present is as follows:—

PASSENGER FARES

United States—		
All territory	Standard	3·6 cts. per mile
Canada—		
East of McLeod, Calgary and Thornton	Standard	3·45 cts. per mile
West of above territory	Standard	4 cts. per mile

SLEEPING AND PARLOR CAR FARES

United States	Surcharge of 50 per cent
Canada	Surcharge of 25 per cent

EXCESS BAGGAGE CHARGE

United States	20 per cent increase
Canada	20 per cent increase

MILK IN BAGGAGE CARS

United States	20 per cent increase
Canada	No increase

BASIC COMMODITY REDUCTIONS

At the hearings by the Special Committee of Parliament above referred to, both the Canadian Pacific Railway and the Canadian National Railways proposed that, outside of the question of the rates on grain from the Prairie Provinces to the head of the lakes, any decreases in freight rates in Canada should be confined to what they called "basic commodities," and, in the reference to the subject as found on page 47 of the Reports of the Special Committee,

Mr. Beatty, President of the Canadian Pacific Railway Company, states as follows:—

> "It was apparent, however, that in 1921 certain industries felt the depression much more severely than others, and it was the opinion of the railway executives both in Canada and the United States, an opinion which, I think, is shared by the United States Government as expressed by the testimony of the Secretary of Commerce, Mr. Hoover, before the Interstate Commerce Commission, that inasmuch as the reductions were a matter of relief they should be first extended to those industries which most needed it. It was felt that more effective relief would be accorded in this way and that it would bear less heavily on the companies' revenues because of the exclusion from the reductions of numerous commodities in which the railway rate played a very small part. If the matter were one depending on the judgment of the railways, this method would be followed if the Railway Commission approved."

Mr. Beatty furnished the following list of basic commodities on which he thought reductions should be made; grain and grain products, forest products, coal, building material, brick, cement, lime, plaster, potatoes, fertilizer, ores, wire, rods, and scrap iron, to which, later on, were added pig-iron, blooms, and billets. The same list was afterwards approved by the Canadian National Railways.

In the Report of the Special Committe to the House above referred to, it was stated as follows:—

> "Basic commodities which may be afforded reductions should have the earliest possible consideration by the Board of Railway Commissioners."

While the recommendation of the committee is to be treated with respect, it is not binding in law upon this Board, it is arguable that in revising rates, the logical method to pursue is to redress antecedent necessary percentage increases by subsequent percentage decreases, thus minimizing the inequalities which the percentage increases had accentuated. As a matter of emergency action, however, revisions may be made on basic commodities in so far as is possible, consistently with other conditions now existing.

At a later sitting of the committee, both the Canadian Pacific and the Canadian National Railway Companies suggested that, in lieu of the coming into effect of the Crowsnest Pass Agreement, the following percentage reductions from present rates should be made upon these basic commodities, viz.:—

Grain and grain products west of Fort William.....20 per cent
Forest products.....20 per cent East, and 16·66 per cent West.
Coal, exclusive of anthracite coal and coal from Fort William—
Reductions specific.
Rates 0 to 80 cts. per ton—reductions 10 cts. per ton
over 80 cts. to $1.50 per ton—reductions 15 cts. per ton
over $1.50 per ton—reductions 20 cts. per ton

Building material—brick, cement, lime, and plaster.....	Western Lines 16·66 per cent Eastern Lines 20 per cent
Potatoes.....	
Fertilizers (other than chemicals).....	
Ores.....	
Pig-iron.....	
Blooms.....	
Billets.....	
Wire rods.....	
Scrap iron.....	

This proposal was not adopted by either the committee or the House as proposed, but, as before stated, the rates on grain and flour from the western provinces to the head of the lakes were reduced to the original Crowsnest Pass

basis, and the question now arises as to what percentage of reduction the Board can reasonably grant upon these specific commodities under the changed conditions above referred to.

At a hearing of the Special Committee on the 20th day of June instant, Mr. Lanigan, Freight Traffic Manager for the Canadian Pacific Railway Company, filed a statement showing what would be the reduction in the revenues of that company if the offer above referred to had been accepted, as follows:—

STATEMENT FILED BY MR. LANIGAN—CANADIAN PACIFIC RAILWAY—BASIC COMMODITIES

Grain and grain products		$ 5,354,139
Forest products		1,765,147
Coal, exclusive of anthracite and coal from Fort William		476,619
Potatoes		115,358
Building material—brick, lime, cement, plaster		353,415
Fertilizers (other than chemical)		18,621
Pig iron, billets, blooms, wire rods, and scrap-iron		132,466
Ores		122,704
	$	8,338,469
International and interstate traffic, 10 per cent		2,220,000
Grand total	$	10,558,469

This showed a total, not including reductions on international traffic, of $8,338,469, and, of this amount, $5,354,139 was the estimated reduction on grain. Taking this from the total reduction leaves a balance of $2,984,330 to be distributed among the other commodities. By the legislation hereinbefore referred to granting the Crowsnest Pass rates on grain as therein provided, according to the evidence of Mr. Beatty, as recorded on page 46 of the Reports of the Special Committee, assuming the grain traffic of the Canadian Pacific Railway to be the same as in 1921, the adoption of the Crowsnest rates would reduce their revenue by $7,159,537, which taken from the sum of $8,338,469 would leave $1,178,932 still available for reduction in rates on the above list of basic commodities, and the Board, after very careful investigation, has concluded that this would be represented by a reduction of 7½ per cent on the rates now in existence on these basic commodities, less than the increases authorized by General Order No. 308, not, however, including therein any reductions heretofore made upon any of the said commodities upon domestic rates in Canada. This would leave increases on these commodities above the basis of September, 1920, at 12½ per cent in Western Canada and 17½ per cent in Eastern Canada.

This reduction of 7½ per cent, however, should not apply to coal other than anthracite, which was not increased on a percentage basis, but by flat rates as hereinbefore particularly described, and, therefore, it is felt that all the increases on coal other than anthracite granted by the Board by General Order No. 308 should cease and the rates go back to those immediately preceding the 13th day of September, 1920. This reduction, however, not to apply to coal from head of lakes ports westbound.

These reductions in the revenues of the Canadian Pacific Railway together with reductions in international rates and those hereinafter provided for will amount to more than eleven million dollars per year, and, considering that the net revenue for that company for the first five months of 1922 shows a falling-off of $2,393,000 as compared with the same months for 1921, the Board does not feel justified in going further in the direction of rate reductions.

The Canadian Pacific Railway figures are given above as this company is taken as the standard in rate discussions. An examination, however, of the Canadian National figures, while showing some improvement over 1921, shows a deficit in operating alone for the first four months of 1922 of $6,945,000, the

only bright spot in the whole situation being the Grand Trunk, which shows a gain of $2,591,000 for the first five months of 1922 as compared with the like period of 1921.

MARITIME PROVINCES

With regard to rates between Maritime Province points and stations west of Montreal, the earliest record is from a tariff published by the Grand Trunk in 1874, naming rates from territory west of Montreal to St. John and Halifax, which applied only via Portland and steamer, and were exclusive of marine insurance. From Toronto, the rates in this tariff were:—

To		Classes			
		1	2	3	4
			Cents per	100 lbs.	
St. John, N.B	S.	100	84	67	50
	W.	106	89	71	51
Halifax, N.S	S.	100	84	67	50
	W.	110	93	74	55

S—Summer rate
W—Winter rate

These rates are simply given as a matter of historical information, and, of course, play no part in the question as at that time the all-rail route via Rivière-du-Loup was not in existence.

Following the opening of the all-rail route, the rates between Maritime Province points and territory west of Montreal were constructed by the addition to the Montreal rate of a scale of arbitraries. The earliest record is a tariff of 1891-1894, showing the following rates:—

	Classes		Arbitrary over Montreal	
	1	5	1	5
	cts.	cts.	cts.	cts.
Toronto to Montreal	50	25	.....	.....
Toronto to St. John	80	40	30	15
Toronto to Halifax	86	43	36	18

The record is not clear between 1894 and 1900 because the organization of this Board was only completed in 1904, and all tariffs then in effect were filed by the railways in that year. However, from 1900 to 1916, the arbitraries over Montreal were:—

To	Classes	
	1	5
	cts.	cts.
St. John	20	10
Halifax	22	11

These arbitraries were, of course, advanced along with all other rates, arbitraries, or proportionals under the various subsequent rate changes, and the situation is shown in the following tabulation:—

	Arbitraries over Montreal			
	St. John Classes		Halifax Classes	
	1	5	1	5
1891-1894	30	15	36	18
1900-1916	20	10	22	11
Dec. 1, 1916	24	12	26	13
Mar. 15, 1918	27½	14	30	15
Aug. 12, 1918	34	17½	37½	19
Sept. 13, 1920	47½	24½	52½	27
Jan. 1, 1921	45½	23½	50½	25½
Dec. 1, 1921	42½	21½	47	23½

The Toronto-St. John rate provides the key to the entire situation so far as relates to the freight rate structure between Maritime Province points and Ontario territory, as the rates to and from the other Ontario groups are related to the Toronto rate, as fixed by the Board in the International Rates Order, and at the other end St. John is the pivotal point, the other groups bearing a fixed relation thereto. This system of ratemaking between the territories in question was in effect long before the creation of the Board and has since been carefully considered, particularly in the Eastern Rates Case in 1916, more extended reference to which is contained in the judgment in that case; it is an integral part of the whole class rate structure in Eastern Canada and could not be changed without involving disturbance of the entire rate fabric in this territory. As the class rate structure in Eastern Canada is not being disturbed at this time no change should be made in these arbitraries.

With reference to rates between Eastern Canada and points west of Fort William, a different situation is found to exist. Instead of territorial groupings in Ontario, as in the case of the rates between Ontario and the Maritime Provinces, the rates are blanketed to and from the whole territory Montreal to Windsor and Sarnia, inclusive, Sudbury to Niagara Falls, all intermediate points and all lateral lines. The reason is apparent—the water lines operate from Montreal, calling at intermediate points to Sarnia, at a common rate to the Head of the Lakes, while the westernmost points, such as Sarnia and Windsor, can reach St. Paul and thence western Canadian points with a short mileage via Chicago. From and to points east of Montreal it has been the practice to add an arbitrary to the Montreal rate. Montreal, through its geographical situation at the head of ocean navigation and as the terminal of the western river and lakes routes, is a natural breaking point. This group with its blanket rate takes in a large area—Montreal to Windsor, 555 miles—Montreal to Sudbury, 444 miles—Niagara Falls to Sudbury, 337 miles—Windsor to Sudbury, 480 miles. The distance from Montreal, the most easterly point, to Fort William, the head of lake navigation and the rate-breaking terminal between Eastern and Western Canada, is 997 miles. From Windsor, the most westerly point, the distance is 1,032 miles. While, of course, the blanket rate covering this territory is justified by the governing conditions outlined, points east of Montreal are put to an undue disadvantage in comparison by the addition to the Montreal rate of a scale of arbitraries that does not indicate an equitable continuation of a long haul rate.

Take, for instance, St. John, N.B., to Toronto, Ontario, a distance of 810 miles, split up St. John, N.B., to Montreal, 466 miles, and Montreal to Toronto

334 miles (C.P.R.), rate St. John to Toronto $1.25½ first class, Montreal to Toronto, 83 cents, difference east of Montreal 42½ cents per 100 pounds. Rate Montreal to Winnipeg, 1,417 miles $2.67½, first class, rate St. John to Winnipeg, 1,885 miles, $3.08½, difference east of Montreal, 41 cents. In other words, the difference over Montreal for the long haul to Winnipeg is practically the same for a haul of 1,885 miles as for a haul of 810 miles. This does not indicate the tapering of a through rate that a long haul justified and is due to the application of a system of rate arbitraries.

The rate from Montreal to Winnipeg is made upon an arbitrary from Montreal to Fort William of $1.39½, first-class, plus the regular first-class rate from Fort William to Winnipeg of $1.28. The regular first-class rate Montreal to Fort William is $1.99½. This shows that effect has been given to the tapering process on a long haul by the addition of a reduced rate arbitrary east of Fort William to the full rate beyond. This process should not stop at Montreal. The first class arbitrary Montreal to Fort William of $1.39½ for 997 miles is represented on the Eastern Schedule a mileage scale by a distance 450 to 475 miles, $1.40, first-class, or in other words, by a constructive mileage roughly equivalent to one-half the actual distance. The differences over Montreal should be blanketed by natural divisions, *i.e.*, on group Montreal to Megantic, Que., a second. Megantic to St. John, N.B., and the differences should not exceed these that would exist under Schedule A were the actual mileage east and south of Montreal treated in the same manner as that between Montreal and Fort William, thus the Megantic group would be 12 cents per 100 pounds, first-class, and 6 cents fifth-class, over the Montreal arbitrary of $1.39½, while St. John would be 24 cents, first-class, and 12 cents, fifth-class, and Halifax 28 cents, first-class, and 14 cents fifth-class, and other Maritime groupings proportionately.

While this Board has no jurisdiction over the Intercolonial and Transcontinental Railways, yet, if this principle were adopted on those roads, then, as Quebec, a distance of 1,352 miles from Winnipeg via the Transcontinental Railway, takes the Montreal rate of $2.67½, first-class, Moncton would naturally take the same arbitrary (as it is to-day) over Quebec rates as St. John, N.B., takes over Montreal rates.

The St. John gateway provides via Canadian Pacific Railway the short mileage to Montreal; from Halifax and other points this route and gateway should be maintained to shippers (with the option of Ste. Rosalie) so that the advantage of the short constructive mileage of the Canadian Pacific Railway will continue to function as a rate factor.

These arbitraries over Montreal, first-class, should be scaled down on the usual relation between classes 1 to 10, and where commodity rates are published will apply as maxima over Montreal at the class of the commodity so treated.

APPLICATION OF SAULT STE. MARIE BOARD OF TRADE

Schedule A was established as a result of the *International Rate Case*.

Application was made at the recent hearings, on behalf of the Sault Ste. Marie Board of Trade, asking that the northwestern boundary of the territory in which Schedule A applied should be extended to include the Soo branch to the city of Sault Ste. Marie. The representative of the Board of Trade stated that he understood that the limits were Parry Sound and North Bay.

In the discussion which took place, it was understood that while North Bay had been provided for in the original order, the territory had been extended to cover Sudbury. It appears from checking the rates that an error crept in and that Sudbury is not enjoying the full advantage of the Schedule A rates.

The Schedule A rates equalized certain conditions of water competition and American rail competition. Sault Ste. Marie which is making the application is a water competitive point. It appears from checking the rates that both Sudbury and Sault Ste. Marie have to a modified extent been given the advantage of the Schedule A rates. What has been done has been to give the advantage of the Schedule A rates to North Bay. This is something available under the tariff. Then for the mileage beyond North Bay to Sudbury and to Sault Ste. Marie there has been given an arbitrary rate for the additional mileage, which is less than the full Schedule A rates would be for the same mileage; that is to say, what is done is not to give Schedule A rates on the through mileage but Schedule A rates on the mileage to North Bay and less than Schedule A rates on the mileage beyond.

As already stated the reduction is arbitrary. The tariffs do not disclose any exact percentage reduction.

On consideration of the evidence submitted by the applicant and in view of the fact that the Schedule A territory has been extended to cover Sault Ste-Marie in the way above indicated, it would appear to be justifiable to make provision for Schedule A rates applying as requested, but basing this on the through mileage.

A similar adjustment should be made to Sudbury.

Such additional mileage on the Schedule A scale as is necessary to cover the extension should be provided for.

MOUNTAIN RATES—BRITISH COLUMBIA

The judgment in the *Western Rate Case* set out that initial construction and railway operation through the mountains were much more expensive than operation on the prairies. It was set out that "some differences in rates at the present time are not only justifiable but necessary. It is not contended, on behalf of British Columbia, that operation through the mountains is not much more expensive." The judgment held that these higher costs could not be "smeared" over the system so that British Columbia would have the same rates as those applying to the Prairie Provinces.

In the present application, various additional contentions were advanced. Emphasis was laid upon the implications alleged to arise from the steps culminating in confederation.

What is involved in this is somewhat analogous to what was involved in *Attorney-General for British Columbia vs. Can. Pac. Ry. Co.*, 3/6, in which it was held that under the terms of the contract with the Dominion Government for the construction of the Canadian Pacific Railway, dated October 21, 1880, Schedule to 44 Victoria, chapter 1, the only party who could make any complaint as to their non-observances was the Government of Canada.

Reference was also made to the alleged better climatic conditions existing in British Columbia as affects operating; and there was also set out the conditions which it was contended should be considered as a result of the construction of the Canadian Northern Pacific.

It does not appear necessary to develop the question as to what implications, if any, are to be deduced from the finding regarding the Canadian National, as set out in the Privy Council Order following the appeal from the Board's decision in the so-called "Forty Per Cent Case." It would appear that the opinion of the late Chief Commissioner Mabee, which was quoted with approval in the Western Rate Case by the then Chief Commissioner, Sir Henry Drayton, is applicable here. The opinion in question is: "The question for us to decide is what rates are fair irrespective of how much any company is worth or is not worth."

In view of what is said herein as to the controlling effect of water and United States rail competition in the portion of Canada east of the Great Lakes. the rates there existing cannot be taken as the necessary proper measure of what the British Columbia rate should be.

Under the *Western Rate Case*, a basis of $1\frac{1}{2}$ for 1 was adopted on the Pacific standard tariff. This, with the appropriate mileage grouping in the tariffs applicable, worked out on the average 30 per cent over the prairie standard. From 80 to 85 per cent of the British Columbia traffic is carried on commodity rates. In so far as these commodity rates are based on percentages of the standard rates, the effects of the standard rate adjustments are carried down, although in much less degree. In the movement on commodity rates of the staples of British Columbia the effect of the mountain scale is in many cases not apparent.

It is admitted by counsel for the province of British Columbia that the costs are still higher on the British Columbia division than on the prairie divisions. He refers, however, to costs east of the Great Lakes as supporting his contentions. As set out herein, it does not appear that deductions from the experience of other sections whose rates are dominated by water and United States railway competition can be controlling here.

Following the reasoning of the *Western Rate Case*, a revision in the mountain scale as provided for in the Pacific standard is justifiable. On careful consideration, the reduction hereinafter provided for should be made; the Board does not feel justified in going any further.

The rates of the new "Pacific" standard mileage tariff are to be constructed by applying to the "Prairie" standard tariff for distances up to and including 750 miles (the approximate maximum haul in British Columbia) $1\frac{1}{4}$ miles for 1 mile, and to the rates so produced the 25-mile differences of the "Prairie" standard scale to be added for each 25 miles over 750 miles, so as to produce standard through rates for part mountain and part prairie hauls.

The distributing rates from recognized mainland distributing centres in British Columbia other than Vancouver and New Westminster, as well as the tariff between Vancouver and New Westminster and points east thereof, will be constructed from the new standard tariff in the same manner as at present, as prescribed in General Order No. 125, May 30, 1914, and Order No. 31648 of October 11, 1921, respectively.

All commodity mileage rates applying locally between stations in Pacific territory, also on interchange traffic between Pacific and prairie territory, to be reduced so as to preserve the same relationship to the new standard mileage scale as they now bear to the present scale, such rates, of course, to be maxima with regard to special commodity rates specifically published.

Rates on grain and grain products from "Prairie" points to stations in British Columbia, for domestic consumption, where now based on "Prairie" mileage scale, but using constructive mileage of $1\frac{1}{2}$ miles for 1 mile for the mountain haul, to be reduced by figuring on $1\frac{1}{4}$ miles for 1 mile for the mountain haul.

LUMBER RATES

As the rates on lumber and forest products, including pulpwood, logs, poles, posts, etc., are to be reduced by $7\frac{1}{2}$ per cent as hereinbefore described, it will be unnecessary to further consider the application of the Canadian Lumbermen's Association.

EXCESS BAGGAGE

By General Order No. 308, passenger fares were increased by 20 per cent up to and including the 31st day of December, 1920, and by 10 per cent from

that date until the 1st day of July, 1921, when the passenger rates reverted to the standard of 3·45 cents per mile, and, by the same order, the rates on excess baggage were increased by 20 per cent. As the rates on excess baggage are built upon a percentage of the passenger fares, it is only logical that, when the passenger fares are reduced, excess baggage should bear the same reduction, and, therefore, it is considered that the rates on excess baggage should go back to the basis prior to September 13, 1920.

EQUALIZATION BETWEEN THE PRAIRIE PROVINCES AND EASTERN CANADA

In the reference to the Board by the Governor in Council in the appeal in the so-called "Forty Per Cent Case," the Board's attention was directed to the advisability of conducting an investigation to see to what extent existing disparities of rates between different rate sections could be redressed. The reference was not based on the idea that the disparities were wrong *per se*. Under the Railway Act, not all discriminations or preferences are forbidden. As was developed with a plenitude of example, in the *Western Rates Case*, what is forbidden under the discrimination sections are preferences which are undue or discriminations which are unjust. The burden, therefore, was on the Board in the investigations made to ascertain whether under existing conditions the discriminations in rates existing were discriminations which fell under the inhibitions of the Railway Act.

Counsel for the provinces of Manitoba and Saskatchewan very frankly and fairly stated: ". . . . . I have never at any time said otherwise than that I did not think that of necessity the rate for the same distance for the same commodity should necessarily be the same east as west or west as east. In my opinion, the equal treatment of unequal things is just as bad as the unequal treatment of equal things. I have never advanced, either in argument before this Board or before any other tribunal, or by evidence adduced, anything which would lend itself to the suggestion that I have advocated that any particular rate must of necessity be the same for any particular distance east as west. There are many other factors beside mere distance." Counsel continued that longer hauls were important in the West; shorter hauls in the East.

Counsel in thus defining the issue emphasized that conditions peculiar to each of the rate areas compared must be given weight in determining whether the low rate existing for a given distance in one section is to be taken as the criterion of discrimination in another. In so presenting the matter, he was but following the position so clearly laid down by the late Chief Commissioner Killam in the early decisions of the Board, namely, that mere mileage comparisons do not afford criteria of discrimination, but that all facts material must be given weight. In other words, under the body of regulation which is developed under the Railway Act, mileage is not a rigid yardstick of discrimination; discrimination, in the sense in which it is forbidden by the Railway Act, is a matter of fact to be determined by the Board.

In the course of argument, counsel for the provinces of Manitoba and Saskatchewan emphasized the position that under his view of existing conditions there should be a reduction in grain rates, and, thereafter, there should be reductions on basic commodities, e.g., cattle, lumber, coal and the instruments of production such as agricultural implements.

A further submission was made that articles in classes 5 to 10, not now covered by commodity rates, should be afforded a reduction. This practically means narrowing down to classes 5 and 7, as class 9, which is concerned with cattle, is unimportant from a rate standpoint, cattle moving on a commodity rate. Coal, lumber, and grain also move on commodity rates.

As already pointed out, a reduction, under Statute, has been made in the rates on grain and flour. Through the Board's instrumentality, a reduction on cattle was made. The articles of lumber and coal are dealt with specifically in the present judgment.

Reference has been made to the greater earning power of western lines, it being contended there is greater earning power both gross and net. At the same time, the larger mileage in the West, specific reference being made to the Canadian Pacific mileage, may be noted.

The fundamental matter, however, in the present application, so far as the position of Manitoba and Saskatchewan is concerned, is in terms of the reference to the Board by the Governor in Council, to ascertain whether there is an unjustifiable discrimination existing as between the rates applicable in the province of Manitoba and Saskatchewan and the rates applicable east of the Lakes. Alberta was not represented by counsel; but what may be found in regard to the justification or otherwise of the difference between rates in Manitoba and Saskatchewan as compared with the section east of the lakes will have application to the situation in Alberta as well. While it is set out, as above, that Alberta was not represented by counsel, it may be said that counsel for the province of British Columbia dealt with certain phases of the situation concerned in his application as if the interests of Alberta and British Columbia were more or less identical. At the same time, it is not set out in the record by any submission from the province of Alberta that counsel for British Columbia was representing Alberta.

In dealing with the situation as between Manitoba and Saskatchewan on the one hand and the section east of the lakes on the other, the very fair and candid statement made by counsel for the province of Manitoba and Saskatchewan, which was in substance that mileage is not the fundamental criterion of discrimination must be given weight. It is necessary to look to the particular facts affecting the rate adjustments in the particular sections.

The *Western Rates* judgment, in dealing with the establishment of special class rates from lake Superior and Pacific coast termini, stated, *inter alia*, that as to lake termini between Port Arthur, Fort William and Westfort and points west thereof, there should apply to and from points east of Winnipeg the prairie territory town tariff basis, subject to the rates to Winnipeg and St. Boniface as maximum; that to and from Winnipeg and St. Boniface the rates should be no greater than those of the prairie standard tariff for 290 miles; that to and from points beyond Winnipeg within prairie territory the maximum first-class rates were to be those of the prairie standard tariff for the through mileage, made up of actual distance beyond Winnipeg added to the above mentioned assumed mileage of 290 miles east of Winnipeg.

The judgment in the *Western Rates Case* sets out how this constructive mileage of 290 miles east of Winnipeg on the movement from the lake termini was arrived at. The essence of the arrangement is that the mileage from the lake to Winnipeg being 424 miles, there is a concession of 134 miles on the movement concerned. This was built up on rate conditions which had developed in the West. There is not the same arrangement existing on a movement from the East to Fort William.

Here, again, the particular facts of the section in which the rate adjustment is made must be considered, and it does not follow that the arrangement herein referred to would be a criterion of discrimination in connection with a complaint as to a different rate adjustment east of the lakes.

Having in mind the special conditions of the territory west of the lakes, a special rate adjustment has been made on the very important commodity of agricultural implements. In the shipment of these from points in Eastern Canada, e.g., Hamilton to Montreal, inclusive, the rate to western points is on

the Chicago basis, that is, the rate from Chicago to said points applies. In view of the system whereby the rates east of Montreal are built up on differences over that point the effect of this rate reduction is carried further east in so far as originating points shipping to the Prairie Provinces are concerned. This, again, is based upon special traffic conditions, and would not necessarily afford a criterion of unjust discrimination in respect of a different treatment in the East in regard to similar mileages concerned.

In the presentation of counsel for the provinces of Manitoba and Saskatchewan, reference was made to the difference in classification basis. In the East, the 5th class rate is one-half of 1st. In the West, the 4th class rate is one-half of 1st. Reference was made to this as showing, *inter alia*, a considerable difference as affecting the important 5th class; and since the distributing rates are built up by taking a percentage off, it was contended that this difference was carried down into the distributing rates.

In general, the apparent conclusion Counsel had in mind was that the Board should construct a basis of its own.

As especial reference was made to the 5th class, some comments in this connection are necessary. In eastern Canada, the 5th class is 50 per cent below the 1st; in Western Canada it is 55 per cent. It may be remarked in passing that in Eastern Canada the 4th class is 37½ per cent below the 1st class rate, while in Western Canada it is 50 per cent below the 1st class rate. Putting it in another way, if the 5th class rate is taken and scaling is made up to the 1st, then in Eastern Canada the 4th class rate is 25 per cent above the 5th class rate, while in Western Canada it is 10 per cent above the 5th class rate.

It was suggested by counsel that the Board should construct a standard of its own, taking the foundation of the Western American Classification.

If the western scale were constructed with the relationship between the classes in conformity with the eastern scale, starting with the 1st class rating in the western scale and scaling down the other classes under the eastern plan, this would result in a large increase in the rates for all classes below the 1st.

If one-haf of the 1st class in the West were taken and put in the position of one-half of the 1st class in the East, this would mean taking the present western 4th class, which is one-half of 1st, and putting it in the position of the eastern 5th class, which is one-half of 1st, and then scaling the other classes on the eastern plan, the result of this would be to produce the same result as the other method just mentioned.

The question of the standardization of the western rate scales is dealt with in the judgment of the *Western Rates Case*, in section 19, under the heading of "Standardization". Reference may be made to this as bearing on the history of the development. The citation set out in the judgment, in the report of the Board's Chief Traffic Officer, the late Mr. Hardwell, emphasizes the advances which would take place if the western rate scale were standardized on the Eastern Canada basis.

Bound up to the difference in classification basis is the difference in one of the fundamental rules of the classification, namely, that concerned with the mixing privilege. As a result of a compromise arising out of the strong position taken by the western jobbers, the more liberal mixing rule of the East is not applicable west of Fort William. West of Fort William, the mixing rule is limited by the trade list principle, and, in general, favour is shown, judging from resolutions filed with this Board by representative trade bodies in the Prairie Provinces, to limiting the mixing rule to articles normally moving in carload quantities. This, again, emphazise a difference in traffic conditions as between the East and the West.

At a meeting held in Winnipeg on April 26, 1921, at which there were present representatives of the Boards of Trade of Brandon, Calgary, Edmonton, Lethbridge, Montreal, Moose Jaw, Regina, Toronto, Vancouver, Winnipeg and the Saskatoon Chamber of Commerce, as well as representatives of the Canadian Manufacturers' Association, there was under discussion the question of a change from the trade list principle in the classification; and the following Resolution was passed:—

"1. It was decided that in the best interests of both Eastern and Western Canada Rule 2 and the trade lists of the present classification should be continued and substituted for proposed Rule 10 of the Canadian Freight Classification No. 17.

"2. It was also decided that a Classification Committee representing western Boards of Trade or other business organizations and railways be named to consult with the present eastern Classification Committee in connection with the provisions of the new classification.

"3. It was further the opinion of the meeting that there should be no disturbance at the present time in the present class rate relationships now exising in Eastern and Western Canada as a result of the finding of the Board of Railway Commissioners in the inquiries conducted in the Eastern and Western Rate Cases and orders issued in relation thereto, and subsequent orders.

"4. The chairman of this meeting was instructed to submit a copy of this resolution to the Board of Railway Commissioners to-morrow."

It may be noted that the Saskatoon Chamber of Commerce dissented from paragraph 3, and the representative of the Vancouver Board of Trade stated he could not vote in favour of the resolution but would submit it to his Board of Trade.

It thus appears on the records before the Board that in regard to classification arrangement there are differences of traffic interest between the Prairie Provinces and the territory east of the Great Lakes. It appears that commercial conditions in the West emphasize a preponderating movement of traffic in carlots and, consequently, any standardization which would effect an increase on the distinctly carload classes would bring about a serious dislocation of business. Here, again, the situation is that differing conditions have brought about different practices and rules, and the rule or practice existing in one section and giving a different treatment is not a necessary measure of discrimination in another section.

Counsel for the provinces of Manitoba and Saskatchewan stated that there was a difference in average hauls East and West, and while stating that in various cases the shorter hauls were at much lower rates in the West than in the East, he contended that the important matter in the West was the long haul. It is a legitimate deduction from this to say that the level of the rate in the East being, according to counsel's submission, concerned with an average short haul, affords no necessary criterion of what the rate should be on longer haul traffic in the West.

It was testified by the Canadian Pacific Railway Company that its rates on building materials in the prairies were lower than in Eastern Canada, there having been taken into consideration the necessities in connection with supplying shelter.

The examples given are illustrative of the fact that differing commercial conditions have brought about differing traffic rates and arrangements, and simply attract attention to the position that it is not in the abstract rates but in the concrete conditions that the measure of determining whether the rate structure is discriminatory or otherwise must be found.

In the *Western Rate* judgment, after a very careful analysis of the rulings of the Board in the matter of discrimination and searching analysis of traffic conditions, the Board found that water competition, generally speaking, was effective in the East. It found that, in the main, the rate structure of Eastern Canada was justified on the basis of water and rail competition; and the following language was used:—

> "For the reasons stated, I am of the opinion that while discrimination exists between the rates charged east and west of Port Arthur, the discrimination is justified under the Railway Act and the decisions of the Board already referred to. It is neither undue or unjust."

See section 9 of the judgment in question.

In the hearings before the Board in the present case, considerable attention was devoted to the matter of water competition in its bearing upon rates in Eastern Canada. Counsel for the provinces of Manitoba and Saskatchewan was disposed to minimize the importance of this water competition. It is true that on account of tonnage readjustments arising out of the war and the incidents thereof there have been fluctuations in the water-borne tonnage, yet this does not detract from the fact that from the ocean well into the middle of the continent there is a water highway on which vessels are free to go and come, not tied down to any particular route, and not involving the large fixed investments which are essential to railway transportation. It is also true that adjacent to this section of Canada are the rail lines of the United States which are equally subject to the effect of this water-borne traffic; and it does not appear that any vital change in this respect has taken place since the date of the decision in the Western Rate Case.

While as a consequence, naturally to be expected, from difference of conditions, many prairie rates have a spread over the eastern rates, the course of the decisions of the Board, including the present decision, has been to narrow this spread wherever possible.

The matter has been put in a succinct way in the evidence before the Special Committee appointed to consider railway transportation costs. Counsel who appeared before the Board for the provinces of Manitoba and Saskatchewan represented these provinces, as well as Alberta, before the Committee. At p. 300 of his evidence, in dealing with the different scales, he said:—

> "First there is the eastern scale which, I will develop later, is held down by maximums created by water competition, potential and otherwise, and by American rail competition."

Again, at p. 301, in summarizing the provisions of the Railway Act in regard to discrimination, he used the following language:—

> "The railways, when we replied that we were discriminated against in respect of eastern rates answered and the Board has held it to be a good answer. True, there is a disparity, a discrimination, and I propose to give you the four or five decisions in all the rate cases to that effect, that there is discrimination, a disparity against us, but the railways have satisfied the onus of showing that it is not unjust or undue, because railway rates in the east are held down by water competition and American rail competition, something they cannot control, and therefore that excuses that discrimination."

The Board holds that the differences in rates as between the Prairie Provinces and Eastern Canada as referred to do not constitute an unjust discrimination or undue preference.

CONCLUSIONS

All steam railways in Canada under the jurisdiction of this Board shall file tariffs, effective the first day of August next, providing for the following reductions, viz.:—

(*a*) On the articles, other than grain and flour, hereinbefore referred to as basic commodities, namely, forest products, building material, brick, cement, lime, and plaster, potatoes, fertilizers (other than chemicals), ores, pig-iron, blooms, billets, wire rods, and scrap-iron, a decrease of $7\frac{1}{2}$ per cent from the increase given by General Order No. 308 and any other orders affecting the said commodities issued since that date, which will hereafter leave the increase granted by said General Order No. 308, in Western Canada, at $12\frac{1}{2}$ per cent and, in Eastern Canada, at $17\frac{1}{2}$ per cent; the term "forest products" as set out in such list to be defined as follows:—

In the territory east of Port Arthur, Ontario, in accordance with the list of commodities shown in Canadian Pacific Railway tariff C.R.C. No. E-3818, as taking rate basis "A"; in the tariffs from British Columbia to prairie points on the commodities taking Group A and Group B rates, as shown in Canadian Pacific Railway tariff C.R.C. No. W-2573; and from stations in Alberta and British Columbia to stations in Eastern Canada, in accordance with the Canadian Freight Association Tariff C.R.C. No. 30; also on pulpwood west of Port Arthur, Ontario.

In cases where reductions heretofore granted or ordered upon these commodities have not amounted to $7\frac{1}{2}$ per cent as above described, they shall be reduced to that point, and, where they exceed $7\frac{1}{2}$ per cent, they will remain as they are at present.

These reductions are made upon the same basis in both Eastern and Western Canada with the object of preserving the same spread between these territories as was provided by General Order No. 308.

(*b*) On coal, other than anthracite and coal from the head of the lakes westward, all increases provided for by General Order No. 308 to be rescinded.

(*c*) On commodities moving under class and commodity rates between points east of Montreal and points west of Port Arthur and Fort William, the establishment or arbitraries as provided for herein;

(*d*) On the territory between North Bay and Sault Ste. Marie, Schedule A rates to be applied;

(*e*) Mountain rates to be reduced to the basis provided for herein: and

(*f*) The increase in excess baggage rates, as provided for in General Order No. 308, to be eliminated.

With the above exceptions, all tariffs now in effect, either under the provisions of General Order No. 308, as amended by General Order No. 350, or as the result of voluntary action by the carriers, shall remain in force.

A. D. CARTWRIGHT,
Secretary, B.R.C.

OTTAWA, June 30, 1922.

GENERAL ORDER No. 367

In the matter of General Order No. 177, dated January 10, 1917, requiring the publication of a rule to govern rates to intermediate points in Canada not named in international tariffs:

File No. 26963.44

Upon its appearing that a uniform practice in connection with both freight and express tariffs is desirable,—

The Board orders: That all international express commodity tariffs now in effect be amended so as to include a rule to the effect that rates named therein, unless specifically indicated as being competitive, will apply to or from intermediate points in Canada not enumerated in the said tariffs; and that a similar rule be published in international commodity tariffs as issued.

F. B. CARVELL,
Chief Commissioner.

OTTAWA, June 29, 1922.

GENERAL ORDER No. 368

In the matter of the General Order of the Board No. 280, dated December 23, 1919, amending General Order No. 248, dated August 19, 1918, by striking out Regulation 9, on page 2 of the Order, and substituting therefor the following, namely: "9. That a signal of a serviceable type, to be approved by the Board, be used to display the signals directed to be provided under Rules 3 (b) and 6 (Yellow Signal) of this Order and Rule 35 (Yellow Signal) of the Uniform Code of Operating Rules":

File No. 4135.25.5

Upon reading the reports of its Chief Operating Officer,—

The Board orders: 1. That the said General Order No. 280, dated December 23, 1919, be, and it is hereby, rescinded.

2. That General Order No. 248, dated August 19, 1918, be, and it is hereby, amended by striking out Regulation 9, on page 2 of the Order, and substituting therefor the following, namely:—

"9. That a signal of a serviceable type, consisting of a bunting flag 22 by 28 inches, five feet above rail level, supported by any satisfactory device which will securely maintain such flag in proper position, be used to display the signals directed to be provided under rules 3 (*b*) and 6 (Yellow signal) of this order and rule 35 (Yellow signal) of the Uniform Code of Operating Rules."

S. J. McLEAN,
Assistant Chief Commissioner.

OTTAWA, June 29, 1922.

SESSIONAL PAPER No. 33

GENERAL ORDER No. 369

In the matter of the application of the Railway Association of Canada, under section 287 of the Railway Act, 1919, for an amendment to Rule No. 33, of the General Train and Interlocking Rules, approved by Order No. 7563, dated July 12, 1909, so as to provide for the use of red signals by highway crossing watchmen as a warning to highway travel that trains are approaching:

File No. 4135.70

Upon hearing the application at the sittings of the Board held in Ottawa, June 21, 1922, the Railway Association of Canada, the Grand Trunk, Canadian Pacific, Toronto, Hamilton and Buffalo, and Pere Marquette Railway Companies, the Canadian National Railways, Michigan Central Railroad Company, New York Central Railroad Company, the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen and Enginemen, the Order of Railway Conductors, and the Trainmen of the Grand Trunk Railway Company being represented at the hearing, and what was alleged; and upon the report and recommendation of its Chief Operating Officer,—

The Board orders: That Rule No. 33 of the said General Train and Interlocking Rules be struck out, and the following substituted therefor, namely:—

> "33. Watchmen stationed at public road crossings must, by day, display a metal disc (16 inches in diameter, white background, with the word 'stop' in large black letters, and a black border); and, by night, a red light, to warn pedestrians and persons in vehicles that a train is approaching. Where gates are provided, a red light, hooded so as to show to the highway only, must be displayed by night."

2. That the General Orders of the Board Nos. 247 and 257, dated respectively August 6, 1918, and December 6, 1918, made herein, be, and they are hereby, rescinded.

F. B. CARVELL,
Chief Commissioner.

OTTAWA, August 10, 1922.

GENERAL ORDER No. 370

In the matter of the General Order of the Board No. 363, dated August 10, 1922, amending the General Train and Interlocking Rules by striking out Rule 33 thereof and substituting therefor the rule set forth in the Order:

File No. 4135.70

Whereas it appears that the said General Train and Interlocking Rules do not apply to certain railway companies incorporated elsewhere than in Canada, owning, controlling, operating or running trains or rolling stock upon or over lines of railway in Canada either owned, controlled, leased, or operated by such companies, and that said companies had been operating under their own rules;

And whereas it is deemed desirable in the interest of uniformity in the operation of railways in Canada that rule 33 prescribed by said General Order No. 369 should have general application.

The Board therefore orders: That every railway company incorporated elsewhere than in Canada and owning, controlling, operating or running trains or rolling stock upon or over any line or lease of railway in Canada either owned controlled, or operated by such company or companies adopt and put into effect

forthwith in connection with the operation of their trains in Canada the following rule, namely:—

"Watchmen stationed at public road crossings must, by day, display a metal disc (16 inches in diameter, white background, with the word, 'stop' in large black letters, and a black border); and, by night, a red light, to warn pedestrians and persons in vehicles that a train is approaching. Where gates are provided, a red light, hooded so as to show to the highway only, must be displayed by night."

S. J. McLEAN,
Assistant Chief Commissioner.

OTTAWA, September 6, 1922.

GENERAL ORDER No. 371

In the matter of the complaints of the Canadian Lumbermen's Association, Dominion Canners, et al, against the proposed change published in tariffs of various railways to be applicable on box shooks, in carloads.

File No. 29253.5.

Upon reading the submissions filed in support of the complaints,—

The Board orders: That the change in tariffs or supplements filed by railways subject to the jurisdiction of the Board qualifying the wording of the item providing for box shooks, in carloads, by stipulating that the same will not apply on material cleated or glued together or otherwise made up, and providing on such material the box shook minimum weight and rate plus four cents (4 cents) per 100 pounds, be, and the same is hereby, disallowed, as from November 1, 1922, pending hearing on a date to be fixed by the Board.

F. B. CARVELL,
Chief Commissioner.

OTTAWA, November 3, 1922.

GENERAL ORDER No. 372

In the matter of the General Order of the Board No. 326, dated January 14, 1921, authorizing an exchange surcharge of sixty per cent of the rate of exchange on all international shipments, other than coal and coke, to be added to the total through charges, including advanced charges, payable to United States carriers, when payable and collected in Canada;

And in the matter of the applications of the Canadian Manufacturers' Association and the Calgary Board of Trade for an Order suspending the operation of the Order and the authority granted by it to the railway companies to levy and collect the said surcharge.

File No. 29674.1-2

Upon reading the written submissions filed by the Canadian Manufacturers' Association, the Canadian Freight Association, and other interests affected, and

hearing what was alleged on behalf of the Calgary Board of Trade and individual shippers, at the sittings of the Board held in Calgary, September 28, 1922,—

The Board Orders: That, for the present, and until further or other order, made either upon application or by the Board of its own motion and without notice, if it shall be deemed desirable or necessary to do so, the companies be, and they are hereby, relieved from complying with the requirements of paragraph 3 of the order, obtaining from the Bank of Montreal the rate of exchange for New York funds at the time and upon the dates specified in the said order, and making monthly returns to the Board showing the amount of surcharges collected.

F. B. CARVELL,
Chief Commissioner.

OTTAWA, November 24, 1922.

GENERAL ORDER No. 373

In the matter of the General Order of the Board No. 372, dated November 24, 1922, relieving the Railway Companies, until further Order, from complying with the requirements of paragraph 3 of General Order No. 326, dated January 14, 1921, in the matter of exchange surcharge on all international shipments, other than coal and coke.

File No. 29674.1-2

Upon its appearing that the rate of exchange quoted for New York funds exceeds one per cent,—

The Board orders: That, for the present and until further Order, the said General Order No. 372, dated November 24, 1922, be, and it is hereby, rescinded.

F. B. CARVELL
Chief Commissioner.

OTTAWA, December 30, 1922.

CIRCULAR No. 196

April 11, 1922.

General Order No. 330, re *Inspection of Steam Railway Boilers.*

File No. 29110.1

Under direction of the Board I enclose you herewith draft Order herein, and I am directed to state that all railway companies subject to the Board's jurisdiction are required to show cause why the recommendation of the Board's Mechanical Expert, as set forth in the said draft, should not be put into full force and effect.

By order of the Board,

A. D. CARTWRIGHT.
Secretary

ORDER No.

In pursuance of the powers conferred upon it, and for the further carrying out the General Order of the Board No. 330 re the Inspection of Railway Steam Boilers, other than Locomotive Boilers.

File No. 29110.1

It is hereby ordered: That all railway companies under the jurisdiction of the Board file with the Chief Operating Officer of the Board, within thirty days from this date, a list showing the numbers of all stationary boilers owned by them; and also file from time to time with the Chief Operating Officer of the Board a list giving the numbers of any additional stationary boilers that may be purchased, built or leased by the said railway companies.

BOARD OF RAILWAY COMMISSIONERS
FOR CANADA.

CIRCULAR No. 197

October 17, 1922.

Re *Whitewashing Return Fences and Cattle Guards.*

File 32146

I am directed to ask that you inform the Board whether or not it is the practice of your company to whitewash the return fences and cattle guards on its lines of railway.

This information is desired by the Board with a view to arriving at uniformity of practice.

By order of the Board,

A. D. CARTWRIGHT,
Secretary.

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ÉLECTIONS PARTIELLES TENUES PENDANT L'ANNÉE 1972

RAPPORT DU

DIRECTEUR GÉNÉRAL DES ÉLECTIONS

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élections du Canada, 1970-71 Chap. 37, chapitre 46

OTTAWA
E. A. MACLEAN
PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY
1973